









KM 361 HUN









# LONDON LOCAL GOVERNMENT.

THE LAW RELATING TO THE

LONDON COUNTY COUNCIL, THE VESTRIES  
AND DISTRICT BOARDS ELECTED UNDER  
THE METROPOLIS MANAGEMENT ACTS,  
AND OTHER LOCAL AUTHORITIES.

BY

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*IN TWO VOLUMES.*

VOL. II.



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## CORRIGENDA AND SUPPLEMENTAL ADDENDA.

### VOL. II.

**Cleansing of Persons Act, 1897** (60 & 61 Vict. c. 31).—Under this Act any sanitary authority as defined by the Public Health (London) Act, 1891, *ante*, Vol. I., p. 334, may provide, free of charge, appliances for the cleansing of any person and his clothing from vermin. They may expend any reasonable sum on buildings, appliances, and attendants for the purpose, and defray their expenses out of the rate or fund applicable for sanitary purposes.

Page 778, note (d).—**Diseases of Animals.** In addition to the Orders mentioned, the following General Orders of the Board of Agriculture are in force, viz.:—The Swine Fever Order of 1894 (*Lond. Gaz.* July 10, 1894, p. 3944); the Swine Fever (Movement from Ireland) Temporary Order of 1894 (*Lond. Gaz.* October 12, 1894, p. 5748), continued to November 30, 1897, by the Swine Fever (Movement from Ireland) Temporary Order of 1897 (No. 3), (*Lond. Gaz.* August 20, 1897, p. 4675); the Glanders and Farcy Order of 1894 (*Lond. Gaz.* October 30, 1894, p. 6068); and the Cowsheds Pleuro-Pneumonia Order of 1897 (*Lond. Gaz.* August 20, 1897, p. 4675).

Page 1021, note (g).—**London County Bills.** Since the date of publication the bill referred to in this note has become law under the title of the London County Council (Money) Act, 1897 (60 & 61 Vict. ch. cxxx.).

Page 1097, note (m).—**Buildings on disused Burial Grounds.** For the first two lines of the second paragraph of this note substitute:—"The London County Council (General Powers) Act, 1897 (60 & 61 Vict. ch. cclii.) sec. 49, enacts"; and on the last line, *for* "any tool or potting sheds or similar structures" *read* "any sheds for the protection of plants and gardening implements."

Page 1117, note (i).—**Carbide of Calcium.** Order in Council dated February 26, 1897 (*Lond. Gaz.* March 2, 1897, p. 1242), as amended by Order in Council dated July 7, 1897 (*Lond. Gaz.* July 9, 1897, p. 3791), applies the Petroleum Acts 1871 to 1881, with some modifications, to carbide of calcium, prescribes the label to be borne on vessels containing it, and requires that it shall not be kept except in pursuance of a licence as provided by sec. 7 of the Petroleum Act, 1871; but permits quantities not exceeding five pounds to be kept without a licence in separate, substantial, hermetically closed vessels, containing not more than one pound each.

Page 1191.—**Valuation Returns.** The forms of returns by the occupier or owner prescribed by the Treasury under sections 55 and 56 of the Valuation (Metropolis) Act, 1869, are given in the Statutory Rules and Orders, 1896, p. 717.

Pages 1343, 1345, 1357.—**Metric Weights and Measures.** The Weights and Measures (Metric System) Act, 1897 (60 & 61 Vict. c. 46), sec. 1, legalises the use of metric weights and measures in trade notwithstanding section 19 of the Weights and Measures Act, 1878. Section 2 includes metric standards in the Board of Trade standards which may be made under sec. 8 of the Act of 1878; and authorises the Queen by Order in Council to make a table of metric equivalents in substitution for the table in Part I. of the Third Schedule to that Act.

October, 1897.



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# LONDON LOCAL GOVERNMENT.

## ALKALI, ETC. WORKS.

|                                                                     |          |
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| 44 & 45 Vict. c. 37 ("Alkali, &c. Works Regulation Act, 1881")..... | page 701 |
| 55 & 56 Vict. c. 30 ("Alkali, &c. Works Regulation Act, 1892")..... | 704      |

### ALKALI, ETC., WORKS REGULATION ACT, 1881 (*a*).

44 & 45 Vict. c. 37. An Act to consolidate the Alkali Acts, 1863 and 1874, and to make further provision for regulating Alkali and certain other works in which noxious or offensive gases are evolved.

[11th August, 1881]

#### PRELIMINARY.

1. This Act may be cited as the Alkali, &c. Works Regulation Act, 1881. Short title.
2. [*Commencement of Act. Repealed by 57 & 58 Vict. c. 56. Statute Law Revision.*]

#### PART I.

##### *Alkali Works and Alkali Waste.*

3. Every alkali work shall be carried on in such manner as to secure the condensation, to the satisfaction of the chief inspector, derived from his own examination, or from that of some other inspector—

- (a) Of the muriatic acid gas evolved in such work, to the extent of ninety-five per centum, and to such an extent that in each cubic foot of air, smoke, or chimney gases, escaping from the works into the atmosphere, there is not contained more than one-fifth part of a grain of muriatic acid.
- (b) Of the acid gases of sulphur and nitrogen which are evolved in the process of manufacturing sulphuric acid or sulphates in the work, to such an extent that the total acidity of such gases in each cubic foot of air, smoke, or gases, escaping into the chimney or into the atmosphere, does not exceed what is equivalent to four grains of sulphuric anhydride.

\* \* \* \* \*

4. In addition to the condensation of acid gases as aforesaid, the owner of every alkali work shall use the best practicable means for preventing the discharge into the atmosphere of all noxious gases and of all offensive gases evolved in such work, or for rendering such gases harmless and inoffensive when

Best practicable means to be used for preventing discharge of

(*a*) **Application of Act.**—The London sanitary authorities may complain to the Local Government Board where any work is carried on in contravention of this Act (sec. 27, *post*), but the duty of executing the Act lies with inspectors appointed by the Local Government Board under secs. 14—19. Only such portions of the Act as affect the powers of the sanitary authorities are therefore set out.

44 & 45 Vict.  
c. 37.

noxious and  
offensive  
gases in  
alkali works.  
Acid drainage  
and alkali  
waste to be  
kept apart.  
Deposit or  
discharge of  
alkali waste.

discharged, subject to the qualification that no objection shall be taken under this section by an inspector to any discharge of gas by a chimney or flue, on the basis of the amount of acid gas per cubic foot of air, smoke, or gases, where that amount does not exceed the amount limited by the last preceding section.

5. Every work in which acid is produced or used shall be carried on in such manner that the acid shall not come in contact with alkali waste, or with drainage therefrom, so as to cause a nuisance.

6. Alkali waste shall not be deposited or discharged without the best practicable means being used for effectually preventing any nuisance arising therefrom.

## PART II.

### *Sulphuric Acid Works and other specified Works.*

Condensation  
of acid gases  
in sulphuric  
acid works.

8. Every sulphuric acid work as defined in the schedule to this Act shall be carried on in such manner as to secure the condensation, to the satisfaction of the chief inspector, derived from his own examination or from that of some other inspector, of the acid gases of sulphur and nitrogen which are evolved in the process of the manufacture of sulphuric acid in such work, to such an extent that the total acidity of such gases in each cubic foot of air, smoke, or gases escaping into the chimney or into the atmosphere does not exceed what is equivalent to four grains of sulphuric anhydride.

Best practi-  
cable means to  
be used for  
preventing  
discharge of  
noxious and  
offensive gases  
in scheduled  
works.

9. The owner of any work specified in the schedule to this Act (hereinafter referred to as a scheduled work) shall use the best practicable means for preventing the discharge into the atmosphere of all noxious gases and of all offensive gases evolved in such work, or for rendering such gases harmless and inoffensive when discharged, subject to the qualification, in the case of sulphuric acid works, that no objection shall be taken under this section by an inspector to any discharge of gas by a chimney or flue, on the basis of the amount of acid gas per cubic foot of air, smoke, or gases, where that amount does not exceed the amount limited by the last preceding section.

Provisional  
order to pre-  
vent discharge  
of certain gases  
in salt works.

10. An inspector may from time to time inquire whether, in any works in which the extraction of salt from brine is carried on, hereinafter called salt works (b), means can be adopted at a reasonable expense for preventing the discharge from the furnaces or chimneys of such works into the atmosphere of sulphurous and muriatic acid gases evolved in such works, or either of such gases, or for rendering such gases, or either of them, harmless or inoffensive when discharged; also whether in any works in which aluminous deposits are treated for the purpose of making cement, hereinafter called cement works, such means as aforesaid can be adopted with respect to the noxious or offensive gases evolved from such works.

Where it appears to the Local Government Board that such means can be adopted at a reasonable expense the Board may from time to time by order require the owners of such works to adopt the best practicable means for the purpose, and may by the order limit the amount or proportion, in the case of salt works, of sulphurous or muriatic acid gas, and in the case of cement works of any noxious or offensive gas, which is to be permitted to escape from such works into the chimney or into the atmosphere, and may also by the order extend to such works such provisions of this Act relating to scheduled works as they see fit.

An order made under this section shall be provisional only and shall not be of any validity until confirmed by Parliament, but when so confirmed shall have full effect, with such modifications as may be made therein by Parliament; and the expression "this Act" when used in this Act shall be deemed to include an order so confirmed, so far as is consistent with the tenor of that order.

(b) *Salt works.*—See sec. 2 of the Alkali, &c. Works Regulation Act, 1892, *post*, exempting certain works from the provisions of this section.

The Board shall take such steps as they may think fit for giving notice to persons interested of the provisions of any order made by them under this section before any bill for confirming the same is introduced into Parliament. 44 & 45 Vict. c. 37.

An order made under this section may impose fines for a breach of its provisions of like amount as any fines imposed by this Act for offences against this Act.

**11—13.** [*These sections require alkali works, and works to which part ii. of this Act applies, to be registered in the manner prescribed by the Local Government Board (c).*]

**14—19.** [*Appointment by the Local Government Board of inspectors for the execution of the Act.*]

**20.** [*Power of owners of works to make special rules.*]

**21.** [*Provision as to calculation of acid.*]

**22—25.** [*Recovery of fines by inspectors in county court.*]

**26.** [*Service of notices.*]

**27.** Where it appears to any sanitary authority, on the written representation of any of their officers, or of any ten inhabitants of their district, that any work (either within or without the district) to which this Act applies is carried on in contravention of this Act, or that any alkali waste is deposited (either within or without the district) in contravention of this Act, and that a nuisance is occasioned by such contravention to any of the inhabitants of their district, such authority may complain to the central authority (*d*), who shall make such inquiry into the matters complained of, and after the inquiry may direct such proceedings to be taken by an inspector as they think just. Complaint by sanitary authority in cases of nuisance.

The sanitary authority complaining shall, if so required by the central authority, pay the expense of any such inquiry, and may pay the same out of the fund or rate applicable to the general expenses of such authority.

The expression "sanitary authority" in this section includes as regards the Metropolis, except the City of London, any vestry or district board elected under the Metropolis Management Act, 1855, also any local board of health, not being an urban sanitary authority within the meaning of the Public Health Act, 1875, and as regards the City of London shall mean the Commissioners of Sewers of the said City. 18 & 19 Vict. c. 190.  
38 & 39 Vict. c. 55.

**28.** [*Actions in case of contributory nuisance.*]

#### (v) Definitions; Repeal; Saving.

**29.** In this Act, unless the context otherwise requires—

"Alkali work" means every work for the manufacture of alkali, sulphate of soda, or sulphate of potash, in which muriatic acid gas is evolved, and for the purpose of this definition the formation of any sulphate in the treatment of copper ores by common salt or other chlorides shall be deemed to be a manufacture of sulphate of soda. Interpretation of terms.

"Noxious or offensive gas" does not include sulphurous acid arising from the combustion of coal.

"Owner" means the lessee, occupier, or any other person carrying on any work to which this Act applies.

"Prescribed" means prescribed from time to time by the Local Government Board, and "the Local Government Board" means the Local Government Board established by the Local Government Board Act, 1871.

"Central authority" means as regards England the said Local Government Board. 34 & 35 Vict. c. 70.

"Person" includes a corporation.

**30.** \* \* \* \* \*

**31.** Nothing in this Act shall legalise any act or default that would, but for this Act, be deemed to be a nuisance, or otherwise be contrary to law, or deprive Saving as to general law.

(c) **Registration.**—An order of the Local Government Board dated January 7th, 1882 (*London Gazette*, January 10th, 1882, p. 98), requires alkali, &c. works to be registered at the office of that Board.

(d) **Central authority**, i.e., the Local Government Board. Sec. 29, *infra*.



- 44 & 45 Vict. c. 37. any person of any remedy by action, indictment, or otherwise, to which he would have been entitled if this Act had not passed (e).

## SCHEDULE.

*List of Works (f).*

- (1) Sulphuric acid works, that is to say, any works in which the manufacture of sulphuric acid is carried on (not being alkali works within the meaning of the foregoing Act, and not being works in which the manufacture of sulphuric acid is carried on in conjunction with the extraction of copper or other metals from ore);
- (2) Chemical manure works, that is to say, any works in which the manufacture of chemical manure is carried on;
- (3) Gas liquor works, that is to say, any works in which gas liquor is used in any manufacturing process;
- (4) Nitric acid works, that is to say, any works in which the manufacture of nitric acid is carried on;
- (5) Sulphate of ammonia works and muriate of ammonia works, that is to say, any works in which the manufacture of sulphate of ammonia or of muriate of ammonia is carried on; and
- (6) Chlorine works or works in which chlorine, bleaching powder, or bleaching liquor is made.

## ALKALI, ETC. WORKS REGULATION ACT, 1892.

55 & 56 Vict. c. 30. An Act to amend the Alkali, &c. Works Regulation Act, 1881. [27th June, 1892]

Addition to  
scheduled  
works.

44 & 45 Vict.  
c. 37.

Exemption of  
certain works.

1. The works specified in the schedule hereto shall be added to those specified in the schedule to the Alkali, &c. Works Regulation Act, 1881, and shall be scheduled works for the purposes of that Act.

Provided that if the process used in any work specified in part one of the schedule hereto shall be such that no sulphuretted hydrogen is evolved therefrom, the work shall not be deemed to be included in the schedule.

2. Works in which salt is produced by refining rock salt, other than those where the rock salt is dissolved at the place of deposit, shall not be within the provisions of the Alkali, &c. Works Regulation Act, 1881, in regard to works in which the extraction of salt from brine is carried on, or of any order made or to be made under section ten of that Act.

3. [*Commencement of Act* : 1st April, 1893.]

4. [*Short title* : *The Alkali, &c. Works Regulation Act, 1892.*]

## SCHEDULE.

## PART I (g).

(1) Alkali waste works, that is to say, works for the recovery of sulphur from alkali waste or for utilising the sulphur or any other constituent of such waste.

(2) Barium works, that is to say, works for the manufacture of barium compounds from barium sulphide.

(3) Strontium works, that is to say, works for the manufacture of strontium compounds from strontium sulphide.

(4) Antimony sulphide works, that is to say, works for the manufacture of antimony sulphide.

(5) Bisulphide of carbon works, that is to say, works for the manufacture of bisulphide of carbon.

(e) *Nuisance*.—See *St. Helen's Chemical Works v. St. Helen's (Mayor &c.)*, 1 Ex. D. 196; 45 L. J. M. C. 150; and *United Alkali Co. v. Simpson* (1894). 2 Q. B. 117; 63 L. J. M. C. 141.

(f) *List of works*.—To this list must now be added the works specified in the schedule to the Alkali, &c. Works Regulation Act, 1892. *post*.

(g) *Part I*. of this schedule must be read subject to the provisions of sec. 1, *supra*.

## PART II.

55 & 56 Vict.  
c. 30.

(6) Venetian red works, that is to say, works for the manufacture of Venetian red, crocus, or polishing powder, by heating sulphate or some other salt of iron.

(7) Lead deposit works, that is to say, works where the sulphate of lead deposit from sulphuric acid chambers is smelted.

(8) Arsenic works, that is to say, works for the preparation of arsenious acid, or where nitric acid or a nitrate is used in the manufacture of arsenic acid or an arseniate.

(9) Nitrate and chloride of iron works, that is to say, works in which nitric acid or a nitrate is used in the manufacture of nitrate or chloride of iron.

(10) Muriatic acid works, that is to say, works, not being alkali works as defined in the Alkali, &c. Works Regulation Act, 1881, where muriatic acid is made.

(11) Fibre separation works, that is to say, works where muriatic acid gas is used for the separation of silk or woollen fibre from vegetable fibre.

(12) Tar works, that is to say, works where gas tar is distilled or is heated in any manufacturing process.

(13) Zinc works, or works in which zinc is extracted from the ore.

## AUDIT OF COUNTY COUNCIL ACCOUNTS.

|                                                                                        |          |
|----------------------------------------------------------------------------------------|----------|
| 38 & 39 Vict. c. 55, secs. 247 and 250 ( " Public Health Act, 1875 " )                 | page 706 |
| 42 Vict. c. 6 ( " District Auditors Act, 1879 " )                                      | 708      |
| 50 & 51 Vict. c. 72 ( " Local Authorities (Expenses) Act, 1887 " ) (c) <i>note</i> ... | 707      |

## PUBLIC HEALTH ACT, 1875 (a).

Audit where  
urban author-  
ity are not a  
town council.

247. Where an urban authority are not the council of a borough the following regulations with respect to audit shall be observed (namely)—

- (1) The accounts of the receipts and expenditure under this Act of such authority shall be audited and examined once in every year, as soon as can be after the twenty-fifth day of March (b), by the auditor of accounts relating to the relief of the poor (c) . . .
- (3) Before each audit such authority shall, after receiving from the auditor the requisite appointment, give at least fourteen days' notice (d) of the time and place at which the same will be made, and of the deposit of accounts required by this section, by advertisement in some one or more of the local newspapers circulated in the district: and the production of the newspaper containing such notice shall be deemed to be sufficient proof of such notice on any proceeding whatsoever:
- (4) A copy of the accounts duly made up and balanced, together with all rate books, account books, deeds, contracts, accounts, vouchers, and receipts mentioned or referred to in such accounts, shall be deposited in the office of such authority, and be open, during office hours thereat, to the inspection of all persons interested for seven clear days before the audit, and all such persons shall be at liberty to take copies of or extracts from the same, without fee or reward; and any officer of such authority duly appointed in that behalf neglecting to make up such accounts and books, or altering such accounts and books, or allowing them to be altered when so made up, or refusing to allow inspection thereof, shall be liable to a penalty not exceeding five pounds:
- (5) For the purpose of any audit under this Act, every auditor may, by summons in writing, require the production before him of all books, deeds, contracts, accounts, vouchers, receipts, and other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, receipts, documents, or papers to appear before him at any such audit or any adjournment thereof, and to make and sign a declaration as to the correctness of the same; and if any such person neglects or refuses so to do, or to produce any such books, deeds, contracts, accounts, vouchers, receipts, documents, or papers, or to make or sign such declaration, he shall incur for every neglect or refusal a penalty not exceeding forty shillings; and if he falsely or corruptly makes or signs any such declaration, knowing the same to be untrue in any material particular, he shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury:
- (6) Any ratepayer or owner of property in the district may be present at the audit, and may make any objection to such accounts before the auditor; and such ratepayers and owners shall have the same right of appeal against allowances by an auditor as they have by law against disallowances:
- (7) Any auditor acting in pursuance of this section shall disallow every item of account contrary to law, and surcharge the same on the person making

(a) **Application of Act.**—Secs. 247 and 250 are applied to the audit of the accounts of the county council by the Local Government Act, 1888, sec. 71 (3), *ante*, vol. i. The Act does not apply to the accounts of London vestries and district boards. See note (d) to the District Auditors Act, 1879, *post*, p. 708.

(b) **25th March.**—The accounts of the county council are made up to the 31st March in each year. Local Government Act, 1888, sec. 73 (1), *ante*, vol. i.

(c) **Poor law auditors.**—These are the district auditors appointed by the Local Government Board under the District Auditors Act, 1879, sec. 4, *post*. The remainder of this sub-section and the whole of sub-sec. 2 are repealed by the District Auditors Act, 1879, sec. 11, *post*.

(d) **At least fourteen days' notice**, i.e., fourteen clear days, exclusive of the day of giving the notice and the day of audit. See note to sec. 19 (3) of the Public Health (Lond.) Act, 1891, *ante*, vol. i.

or authorising the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person (e), and shall in every such case certify the amount due from such person, and on application by any party aggrieved shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made:

- (8) Any person aggrieved by disallowance made may apply to the Court of Queen's Bench for a writ of certiorari to remove the disallowance into the said court, in the same manner and subject to the same conditions as are provided in the case of disallowances by auditors under the laws for the time being in force with regard to the relief of the poor (f); and the said court shall have the same powers with respect to allowances and surcharges under this Act as it has with respect to disallowances or allowances by the said auditors; or in lieu of such application any person so aggrieved may appeal to the Local Government Board, which Board shall have the same powers in the case of the appeal as it possesses in the case of appeals against allowances, disallowances, and surcharges by the said poor law auditors (g):
- (9) Every sum certified to be due from any person by an auditor under this Act shall be paid by such person to the treasurer of such authority within fourteen days after (h) the same has been so certified, unless there is an appeal against the decision; and if such sum is not so paid, and there is no such appeal, the auditor shall recover the same from the person against whom the same has been certified to be due by the like process and with the like powers as in the case of sums certified on the audit of the poor rate

(e) **Disallowance and surcharge.**—The auditor has power to surcharge for any deficiency that may, on the face of the documents submitted to him, appear to have arisen through negligence or misconduct, and the court will not interfere with the auditor's surcharge where, on the face of the documents submitted to him, there is evidence from which he might reasonably have concluded that there had been misconduct or negligence. *Reg. v. Kuott*, 15 L. T. (N. S.) 291. From a case decided under the Highway Act, 1835 (5 & 6 Will. 4, c. 50), sec. 44, it would seem that the auditor is bound to disallow any illegal payment, and has no discretion in the matter. *Barton v. Piggott*, L. R. 10 Q. B. 86; 44 L. J. M. C. 5. But the Local Authorities (Expenses) Act, 1887 (50 & 51 Vict. c. 72), enacts that:—"Expenses paid by any local authority whose accounts are subject to audit by a district auditor shall not be disallowed by that auditor if they have been sanctioned by the Local Government Board."

(f) **Certiorari.**—The Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), sec. 35, empowers "any person aggrieved by any allowance, disallowance, or surcharge by such auditor," to apply to the Court of Queen's Bench for a writ of *certiorari* to remove the same into that court. If it appear to the court that the decision of the auditor was erroneous, the court shall order the sum improperly allowed, disallowed, or surcharged to be paid to the party entitled thereto by the party who ought to repay or discharge the same; and may order the costs of the party prosecuting the *certiorari* to be paid by the parish or union to which such accounts relate. *Ib.* The costs of the auditor are paid out of the poor rates of the union or parish respectively interested, unless the court order otherwise. *Ib.* And see *Prest v. Royston Union*, *infra*.

(g) **Appeal to Local Government Board.**—The Poor Law Amendment Act, 1844, sec. 36, empowers any person aggrieved by such allowance, disallowance, or surcharge to apply to the Local Government Board instead of applying for a writ of *certiorari*, and the said Board may issue such order therein as they may deem necessary for determining the question. If the Board think that any disallowance or surcharge has been lawfully made, but that the subject thereof was incurred under such circumstances as make it fair and equitable that the disallowance or surcharge shall be remitted, they may direct that the same shall be remitted on payment of the costs of the auditor. Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), sec. 4. Where an auditor has allowed or surcharged a sum in any account rendered to him jointly, his decision may be reversed on appeal by the court or the Local Government Board, as the case may be, and the disallowance or surcharge may be remitted by the Board in favour of one or more of the persons appealing only, without discharging the other person or persons against whom the auditor's decision was pronounced. Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), sec. 38.

(h) **Within fourteen days after**, i.e., fourteen days exclusive of the day on which the sum is certified or the audit is completed, but inclusive of the day on which the sum is to be paid or the report made. *Robinson v. Waddington*, 13 Q. B. 753; 18 L. J. Q. B. 250; *Radeliffe v. Bartholomew* (1892), 1 Q. B. 161; 61 L. J. M. C. 63.



38 & 39 Vict.  
c. 55.

accounts(*i*), and shall be paid by such authority all such costs(*j*) and expenses, including a reasonable compensation for loss of time incurred by him in such proceedings, as are not recovered by him from such person :  
(10) Within fourteen days after (*k*) the completion of the audit, the auditor shall report on the accounts audited and examined, and shall deliver such report to the clerk of such authority, who shall cause the same to be deposited in their office, and shall publish an abstract of such accounts in some one or more of the local newspapers circulated in the district.

Where the provisions as to audit of any local Act constituting a board of improvement commissioners are repugnant to or inconsistent with those of this Act, the audit of the accounts of such improvement commissioners shall be conducted in all respects in accordance with the provisions of this Act.

\* \* \* \* \*

Auditor to  
audit accounts  
of officers.

**250.** The accounts under this Act of officers or assistants of any local authority who are required to receive moneys or goods on behalf of such authority shall be audited by the auditors or auditor of the accounts of such authority, with the same powers, incidents, and consequences as in the case of such last-mentioned accounts.

### DISTRICT AUDITORS ACT, 1879 (*l*).

**42 Vict. c. 6.** An Act to amend the Law with respect to District Auditors. [28th March, 1879]

Short title.

**1.** This Act may be cited as the District Auditors Act, 1879.

Provision as to  
contribution by  
Treasury and  
out of local  
rate for pay-  
ment of district  
auditors.

**2.** The whole of the salaries or remuneration and of the expenses of district auditors, to such amount as may be sanctioned by the Treasury, shall be paid out of moneys provided by Parliament; and for the purpose of contributing to the amount required for the payment of such salaries, remuneration, and expenses, there shall be charged on every local authority whose accounts are audited by a district auditor a stamp duty for the use of Her Majesty, according to the scale contained in the first schedule to this Act, and such duty shall be levied by a stamp on the certificate of the auditor hereinafter mentioned.

Financial state-  
ment with  
stamped certifi-  
cate of district  
auditor.  
29 & 30 Vict.  
c. 113, s. 6.

**3.** Where the accounts of the receipts and expenditure of a local authority are audited by a district auditor, the local authority shall prepare and submit to the district auditor at every audit (other than an extraordinary audit held in pursuance of section six of the Poor Law Amendment Act, 1866) a financial

(*i*) **Recovery of sums certified.**—Payment of sums certified by a district auditor to be due may, together with the costs of the proceedings for the recovery thereof, be enforced by distress and sale of goods, and in default of distress by commitment of the defaulter to prison for any term not exceeding three months. Poor Law Amendment Acts, 1834 (4 & 5 Will. 4, c. 76), sec. 69, and 1844 (7 & 8 Vict. c. 101), sec. 32; Distress for Rates Act, 1849 (12 & 13 Vict. c. 14), secs. 2 and 3; Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 11. The validity of the auditor's decision cannot be contested in proceedings for the recovery of the sum certified, and the justices have no alternative but to issue their warrant. *Reg. v. Tyrowhitt*, 2 E. & B. 77; 17 Jur. 893; *Reg. v. Linford*, 7 E. & E. 935; 21 J. P. 308; *Reg. v. Finnis*, 1 E. & E. 935; 28 L. J. M. C. 301. But it may be shown that the amount, or part of it, has in fact been paid since the date of the accounts, though prior to the auditor's certificate. *Reg. v. Fordham*, L. R. 8 Q. B. 501; 42 L. J. M. C. 153; *Prest v. Royston Union*, *infra*. An amount certified by a district auditor is a debt only, which is extinguished if the debtor be subsequently adjudged a bankrupt and obtain his discharge. *Reg. v. Master*, L. R. 4 Q. B. 285; 38 L. J. M. C. 73.

(*j*) **Costs.**—Where an auditor failed in an application for a *mandamus* to compel the justices to issue a distress warrant for the recovery of a certified deficiency in the accounts of an overseer the guardians were held liable for his costs. *Prest v. Royston Union*, 33 L. T. (N. S.) 564; 24 W. R. 177.

(*k*) **Within fourteen days after.**—See note (*k*) on p. 707.

(*l*) **Application of Act.**—The provisions of this Act are applied to the audit of the accounts of county councils by the Local Government Act, 1888, sec. 71 (3), *ante*, vol. i. The Act does not apply to the accounts of London vestries and district boards, as to the audit of which see the Metropolis Management Act, 1855, sec. 11 and secs. 192 to 197; and the Metrop. Man. Amend. Act, 1862, sec. 38, *ante*, vol. i.

statement in duplicate in the prescribed form (*m*) and containing the prescribed particulars; one of such duplicates shall have the stamp charged under this Act affixed thereon, and the auditor at the conclusion of the audit shall cancel that stamp, and certify on each duplicate, in the prescribed form, the amount in words at length of the expenditure so audited and allowed, and further, that the regulations with respect to such statement have been duly complied with, and that he has ascertained by the audit the correctness of the statement.

42 V ct. c. 6.

He shall forthwith send the duplicate so stamped and certified by him to the Local Government Board; and in such case a return of the receipts or expenditure comprised in such statement need not, unless the Local Government Board so require, be sent to the Board in pursuance of the Local Taxation Returns Acts, 1860 and 1877 (*n*).

23 & 24 Vict.  
c. 51.  
40 & 41 Vict.  
c. 66.  
Appointment  
and districts of  
district  
auditors.

4. The Local Government Board may from time to time appoint such number of district auditors as they may, with the sanction of the Treasury, think necessary for the performance of the duties of auditing the accounts which are for the time being by law subject to be audited by district auditors, and may from time to time remove such auditors.

The Board may from time to time assign to district auditors their duties, and the districts in which such auditors respectively are to act, and may from time to time change wholly or in part such duties or districts; and every district so assigned to a district auditor, whether originally or upon any change, shall be deemed to be an audit district within the meaning of any enactment relating to district auditors or their districts, and the auditor to whom any district is assigned shall be deemed to be the district auditor for that district.

The Board may also, with the consent of the Treasury, appoint from time to time a person or persons, either temporarily or otherwise, to assist a district auditor in the performance of his duties, and any person so appointed shall, subject to any exceptions made by the terms of his appointment, have the same powers and duties and be subject to the same obligations as the district auditor whom he is appointed to assist.

The Board, with the like consent, may assign to a person so appointed such salary or remuneration and such sum for his expenses as may seem fit, and such salary, remuneration, and expenses shall be paid out of moneys provided by Parliament.

5. Where any accounts of the receipts and expenditure of a local authority are subject by law to be audited by a district auditor, the Local Government Board may from time to time by order make, and when made revoke and vary, such regulations as seem to the Board necessary or proper respecting the audit of such accounts, including the form of keeping the accounts (*m*) of the local authority and their officers, the day or days to which the accounts are to be made up (*o*), the time within which they are to be examined by the local authority, the mode in which, if it so prescribed, they are to be certified by the local authority or any officer of that authority, the mode of publishing the time and place of holding the audit, the persons by whom such accounts are to be produced for audit, and the mode of conducting the audit, and an order under this section shall be deemed to be an order within the meaning of section ninety-eight of the Poor Law Amendment Act, 1834 (*p*).

Regulations as  
to audit.

6. The duties charged under this Act shall be deemed to be stamp duties under the management of the Commissioners of Inland Revenue, and all the

4 & 5 W. 4,  
c. 76.  
Stamp duties  
under Inland  
Revenue.

(*m*) **Form of accounts.**—The accounts of county councils are required to be made up in the form for the time being prescribed by the Local Government Board. Local Government Act, 1888, sec. 71 (1), *ante*, vol. i.

(*n*) **Local Taxation Returns Acts, 1860 and 1877.**—*Post*, tit. "Local Taxation Returns,"

(*o*) **Day accounts made up.**—The county council's accounts are made up to the 31st March each year. Local Government Act, 1888, secs. 71 (1) and 73 (1), *ante*, vol. i.

(*p*) **Poor Law Amendment Act, 1834.**—Sec. 98 of this Act provides that in case any person shall wilfully neglect or disobey any rules, orders, or regulations, or be guilty of any contempt of the Poor Law Commissioners (now the Local Government Board), such person shall, upon summary conviction, forfeit and pay for the first offence any sum not exceeding 5*l.*, for the second offence any sum not exceeding 20*l.*, nor less than 5*l.*, and in the event of such person being convicted a third time such third and every subsequent offence shall be deemed a misdemeanour, and such offender shall be liable to be indicted for the same offence, and shall, on conviction, pay such fine, not being less than 20*l.*, and suffer such imprisonment, with or without hard labour, as may be awarded against him by the court by or before which he is tried or convicted.

42 Vict. c. 6. Acts relating to stamp duties, particularly those relating to forgery, fraudulent dies, and other offences in connexion with stamp duties, shall apply accordingly; and such duties may, if the commissioners so direct, be denoted by adhesive stamps, to be cancelled by the auditor as provided by this Act.

Failure to submit financial statement. 7. If a local authority fail to comply with the provisions of this Act with respect to a financial statement, such local authority, or if a clerk to the local authority is appointed, that clerk, and if no clerk is appointed, but there is a treasurer or other officer keeping the accounts which should be comprised in such financial statement, that treasurer or other officer shall be liable to a fine not exceeding twenty pounds for each offence to be recovered by action on behalf of Her Majesty in the High Court of Justice.

Definitions. 8. In this Act—  
The expression "local rate" means the poor rate, the general district rate, and every rate the proceeds of which are applicable to public local purposes, and which is leviable on the basis of a poundage assessment of the value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined.

The expression "local authority" means any person or body of persons who receive and expend any local rate, but does not include overseers of the poor. The expression "prescribed" means prescribed from time to time by the Local Government Board.

9—10. [*Repealed by 57 & 58 Vict. c. 56. Statute Law Revision.*]

11. [*Repeal of Acts in 2nd schedule.*]

Saving of certain fees and expenses.

12. Nothing in this Act shall prevent a district auditor from recovering . . . any expenses which he may incur in any proceedings which he is authorised or required to take or defend under the statutes in that behalf.

#### FIRST SCHEDULE.

Section 2.

#### *Scale of Stamp Duties payable by Local Authorities.*

| Where the total of the expenditure comprised in the financial statement is | The sum shall be |
|----------------------------------------------------------------------------|------------------|
| Under 20 <i>l.</i> .....                                                   | 5 <i>s.</i>      |
| 20 <i>l.</i> and under 50 <i>l.</i> .....                                  | 10 <i>s.</i>     |
| 50 <i>l.</i> and under 100 <i>l.</i> .....                                 | 1 <i>l.</i>      |
| 100 <i>l.</i> and under 500 <i>l.</i> .....                                | 2 <i>l.</i>      |
| 500 <i>l.</i> and under 1,000 <i>l.</i> .....                              | 3 <i>l.</i>      |
| 1,000 <i>l.</i> and under 2,500 <i>l.</i> .....                            | 4 <i>l.</i>      |
| 2,500 <i>l.</i> and under 5,000 <i>l.</i> .....                            | 5 <i>l.</i>      |
| 5,000 <i>l.</i> and under 10,000 <i>l.</i> .....                           | 10 <i>l.</i>     |
| 10,000 <i>l.</i> and under 20,000 <i>l.</i> .....                          | 15 <i>l.</i>     |
| 20,000 <i>l.</i> and under 50,000 <i>l.</i> .....                          | 20 <i>l.</i>     |
| 50,000 <i>l.</i> and under 100,000 <i>l.</i> .....                         | 30 <i>l.</i>     |
| 100,000 <i>l.</i> and upwards ( <i>q</i> ) .....                           | 50 <i>l.</i>     |

For the purpose of this schedule the expenditure comprised in the financial statement shall be exclusive of any sum paid to another local authority in pursuance of a precept.

#### SECOND SCHEDULE.

[*Acts repealed. Repealed by 57 & 58 Vict. c. 56. Statute Law Revision.*]

(*q*) 100,000*l.* and upwards.—As to expenditure of 100,000*l.* and upwards, the following scale is substituted by the Local Government Act, 1888, sec. 71 and 2nd sched., *ante*, vol. i:—

100,000*l.* and under 150,000*l.* the sum shall be 50*l.*

150,000*l.* " " 200,000*l.* " " " " 60*l.*

200,000*l.* and upwards the sum shall be 15*l.* in addition for every 50,000*l.* or part thereof.



## BARBED WIRE.

## BARBED WIRE ACT, 1893.

**56 & 57 Vict. c. 32.** An Act to prevent the use of Barbed Wire for Fences in Roads, Streets, Lanes, and other Thoroughfares.

[27th July, 1893]

1. This Act may be cited for all purposes as the Barbed Wire Act, 1893. Short title.
  2. In this Act—  
 The expression “barbed wire” means any wire with spikes or jagged projections; and the expression “nuisance to a highway,” as applied to barbed wire, means barbed wire which may probably be injurious to persons or animals lawfully using such highway: Interpretation.  
 In England and Wales the expression “local authority” means any county council, any urban sanitary authority, any sanitary authority in London (*a*), any highway board, and any other local authorities existing, or that may be hereafter created by Parliament, having control over highways:  
 In Scotland . . .  
 In Ireland . . .
  - 3.—(1) Where there is on any land adjoining a highway (*b*) within the county or district of a local authority a fence made with barbed wire, or in or on which barbed wire has been placed, and such barbed wire is a nuisance to such highway, it shall be lawful for such local authority to serve notice in writing upon the occupier of such land requiring him within a time therein stated (not to be less than one month nor more than six months after the date of the notice) to abate such nuisance. Removal of barbed wire where nuisance to highway.  
 (2) If on the expiration of the time stated in the notice the occupier shall have failed to comply therewith, it shall be lawful for the local authority to apply to a court of summary jurisdiction (*c*), and such court, if satisfied that the said barbed wire is a nuisance to such highway, may by summary order direct the occupier to abate such nuisance; and on his failure to comply with such order within a reasonable time the local authority may do whatever may be necessary in execution of the order, and recover in a summary manner (*d*) the expenses incurred in connexion therewith.  
 (3) In Ireland . . .
  4. Where the local authority are the occupiers of the land, proceedings under this Act may be taken by any ratepayer within the district of the local authority, and a notice to the local authority to abate the nuisance shall be deemed to be properly served if it is served upon the clerk of the local authority, and any ratepayer taking proceedings may do all acts and things which a local authority is empowered to do. Proceedings where local authority is occupier of the land.
  5. Any expenses incurred by a local authority in the execution of this Act shall be defrayed in like manner as the expenses of the local authority incurred in respect of any highways. Expenses of local authority.
- 
- (*a*) **Any sanitary authority in London.**—For the meaning of this expression see the Public Health (London) Act, 1891, sec. 99, *ante*, vol. i.  
 (*b*) **Highway.**—As to what is a highway, see note (*y*) to sec. 96 of the Metropolitan Management Act, 1855, *ante*, vol. i.  
 (*c*) **Court of summary jurisdiction.**—For the meaning of this expression see note to sec. 21 (3) (*b*) of the Municipal Corporation Act, 1882, *ante*, vol. i.  
 (*d*) **Recover in a summary manner.**—See note to sec. 227 of the Metropolitan Management Act, 1855, *ante*, vol. i., for the time and manner of taking summary proceedings.



## BATHS AND WASHHOUSES.

|                                                                 |                         |     |
|-----------------------------------------------------------------|-------------------------|-----|
| 9 & 10 Vict. c. 74 ( " Baths and Washhouses Act, 1846 " )       | .....page               | 712 |
| 8 Vict. c. 16 ( " Companies Clauses Consolidation Act, 1845 " ) | .....                   | 719 |
| 10 & 11 Vict. c. 61 ( " Baths and Washhouses Act, 1847 " )      | .....                   | 727 |
| 41 Vict. c. 14 ( " Baths and Washhouses Act, 1878 " )           | .....                   | 729 |
| 45 & 46 Vict. c. 30 ( " Baths and Washhouses Act, 1882 " )      | pp. 716 (s) and 717 (w) |     |
| 59 & 60 Vict. c. 59 ( " Baths and Washhouses Act, 1896 " )      | .....                   | 730 |

## BATHS AND WASHHOUSES ACT, 1846 (a).

9 & 10 Vict. c. 74. An Act to encourage the Establishment of Public Baths and Washhouses. [26th August, 1846

## [Preamble.]

Act may be adopted in certain boroughs and parishes.

Interpretation of Act.

1. This Act may be adopted for any incorporated borough in *England* which is regulated under an Act passed in the sixth year of the reign of His late Majesty, to provide for the regulation of municipal corporations, or any charter granted in pursuance of the said Act, or any Act passed for the amendment thereof, and also, with the approval of *one of Her Majesty's Principal Secretaries of State* (b), for any parish in *England* not within any such incorporated borough.

2. In this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say,

"Parish" shall mean . . . (c):

"Borough" shall mean city, borough, port, cinque port, or town corporate:

"Ratepayers" shall mean . . . (c):

"Churchwardens" shall mean also chapelwardens, or other persons discharging the duties of churchwardens:

"Overseers" shall mean also any persons authorised and required to make and collect or cause to be collected the rate for the relief of the poor of the parish, and acting instead of overseers of the poor:

"Vestry" shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a select vestry (d) . . . elected under an Act passed in the second year of the reign of His late Majesty, intitled The Vestries Act, 1831, or elected under the provisions of any local Act of Parliament for the government of any parish by vestries, in which parishes it shall mean such select vestry:

"Commissioners" shall mean the commissioners appointed in accordance with this Act for any parish, and for the time being in office and acting as such commissioners:

"Clerk" shall mean, as regards an incorporated borough, the town clerk of such borough; and, as regards a parish, the clerk appointed pursuant to this Act by the commissioners:

"Justice" shall mean justice of the peace for the county, riding, division, liberty, borough, or place where the matter requiring the cognizance of justices shall arise:

"Lands" shall mean lands, tenements, and hereditaments, of whatsoever nature or tenure:

Words importing the masculine gender shall include the feminine:

Words of the plural number shall include the singular, and words of the singular number shall include the plural.

(.) **Short title.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(b) **Secretaries of State.**—Now the Local Government Board Act, 1871 (34 & 35 Vict. c. 70).

(c) **Parish. . . . Ratepayers.**—The definitions of these expressions are replaced by sec. 2 of the Baths and Washhouses Act, 1847, *post*, and were repealed by Statute Law Revision Act, 1875 (38 & 39 Vict. c. 66).

(d) **Vestry.**—The definition of this expression is amended by the Baths and Washhouses Act, 1847, sec. 2, *post*.

3. [*Repealed by 38 & 39 Vict. c. 66. Statute Law Revision.*]

9 & 10 Vict.  
c. 74.

4. [*In municipal boroughs income arising from baths and washhouses to be carried to borough fund, and separate accounts kept.*]

5. Upon the requisition in writing of ten or more ratepayers of any such parish as aforesaid, not being within any such incorporated borough, the churchwardens or other persons to whom it belongs to convene meetings of the vestry in such parish shall convene a meeting of the vestry for the special purpose of determining whether this Act shall be adopted for the parish, after public notice of such vestry, and the place and hour of holding the same, and the special purpose thereof, given in the usual manner in which notice of the meetings of the vestry is given at least seven days before (e) the day to be appointed for holding such vestry; and if thereupon it shall be resolved by the vestry that this Act ought to be adopted for the parish, a copy of such resolution extracted from the minutes of the vestry, and signed by the chairman, shall be sent to one of Her Majesty's Principal Secretaries of State (f) for his approval, and as soon as such approval shall have been signified in writing under the hand of any such Secretary of State (f), such of the provisions of this Act as are applicable in that behalf shall thenceforth take effect and come into operation in the parish: Provided always, that no such resolution of the vestry shall be deemed to be carried unless at least two thirds of the number of votes given on the question according to the usual manner of voting at such vestry shall have been given for such resolution.

On the requisition of ten ratepayers, churchwardens, &c. to convene vestry meeting to determine whether this Act shall be adopted.

If vestry resolve to adopt the Act, a copy of resolution to be sent to Local Government Board.

No resolution deemed to be carried unless two thirds vote for it.

6. In such case the vestry shall appoint not less than three nor more than seven persons, being ratepayers of the parish, commissioners (g) for carrying this Act into execution in the parish, of whom one third, or as nearly as may be one third (to be determined among themselves), shall go out of office yearly, but shall be eligible for immediate re-appointment.

Where Act adopted vestry to appoint commissioners for carrying the same into execution.

7. Any commissioner (g) may at any time resign his office as a commissioner on giving seven days' notice in writing of his intention to resign to the clerk, and also to the churchwardens.

Resignation of commissioners.

8. Any vacancies in the commissionership may be filled up by the vestry when and as the vestry shall think fit.

Vacancies to be filled up by vestry.

9. The commissioners (g) shall meet at least once in every calendar month at their office, or some other convenient place previously publicly notified.

Meetings of the commissioners.

10. The commissioners (g) may meet at such other time as at any previous meeting shall be determined upon, and it shall be at all times competent for any one commissioner, by writing under his hand, to summon, with at least forty-eight hours' notice, the commissioners for any special purpose therein named, and to meet at such times as shall be therein named.

Special meetings of commissioners.

11. At all meetings of the commissioners (g), any number not less than one third of the whole number when more than three commissioners shall have been appointed, and when only three commissioners shall have been appointed then any number not less than two commissioners, shall be a sufficient number for transacting business, and for exercising all the powers of the commissioners.

Quorum of meetings of commissioners.

12. The commissioners (g) shall appoint, and may remove at pleasure, a clerk and such other officers and servants as shall be necessary for effecting the purposes of this Act, and, with the approval of the vestry, may appoint reasonable salaries, wages, and allowances for such clerk, officers, and servants, and, when necessary, may hire and rent a sufficient office for holding their meetings and transacting their business, and may agree for and pay a reasonable rent for such office.

Commissioners may appoint and remove officers, &c.

13. All orders and proceedings of the commissioners (g) shall be entered in books, to be kept by them for that purpose, and shall be signed by the commissioners, or any two of them; and all such orders and proceedings so entered, and purporting to be so signed, shall be deemed to be original orders and

Minutes of proceedings of commissioners to be entered in a book.

(e) *At least seven days before*, i.e., clear days, exclusive of the day of publishing the notice and the day of meeting. *Railway Sleepers Supply Co., In re, ante*, vol. i. p. 291.

(f) *Secretaries of State*.—Now the Local Government Board. Local Government Board Act, 1871 (34 & 35 Vict. c. 70).

(g) *Commissioners*.—As to the transfer of the powers, duties, and liabilities of the commissioners to the sanitary authority, see note to sec. 33, *post*.

9 & 10 Vict.  
c. 74.

Commissioners  
to keep ac-  
counts, which  
shall be open to  
inspection.

Penalty for  
refusing to  
allow inspec-  
tion.

Auditors to  
be appointed  
yearly, who  
shall examine  
the accounts  
and report to  
vestries.

Expenses of  
executing Act  
in any parish  
to be paid out  
of the poor's  
rate.

Overseers to  
levy, as part  
of the poor's  
rate, such  
sums as vestry  
shall deem  
necessary to  
pay expenses.

Moneys raised,  
and the income  
arising from  
baths, &c. in  
the parish, to  
be applied  
towards  
defraying  
expenses.

Vestries of  
two or more  
parishes may  
concur in

proceedings; and such books may be produced and read as evidence of all such orders and proceedings upon any appeal, trial, information, or other proceeding, civil or criminal, and in any court of law or equity whatsoever.

14. The commissioners (*h*) shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid for or on account of the purposes of this Act in the parish, and of all liabilities incurred by them for such purposes, and of the several purposes for which such sums of money shall have been paid and such liabilities shall have been incurred; and such books shall at all reasonable times be open to the examination of every commissioner, churchwarden, overseer, and ratepayer, without fee or reward, and they respectively may take copies of or extracts from such books, or any part thereof, without paying for the same; and in case the commissioners, or any of them, or any of their officers or servants, having the custody of the said books, being thereunto reasonably requested, shall refuse to permit or shall not permit any churchwarden, overseer, or ratepayer to examine the same, or take any such copy or extract, every commissioner, officer, or servant so offending shall for every such offence forfeit any sum not exceeding five pounds.

15. The vestry shall yearly appoint two persons, not being commissioners, to be auditors of the accounts of the commissioners, and at such time in the month of March in every year after the adoption of this Act for the parish as the vestry shall appoint the commissioners shall produce to the auditors their accounts, with sufficient vouchers for all moneys received and paid, and the auditors shall examine such accounts and vouchers, and report thereon to the vestry (*i*).

16. The expenses of carrying this Act into execution in any parish not within any such incorporated borough to such amount as shall be from time to time sanctioned by the vestry shall be chargeable upon and paid out of the moneys to be raised or applicable for the relief of the poor of the parish.

17. For defraying the expenses which shall have been or shall be incurred in carrying this Act into execution in the parish the vestry may and shall from time to time order the overseers to levy with and as part of the rate for the relief of the poor of the parish such sums as the vestry shall deem necessary, and the amount thereof shall accordingly be assessed, levied, paid, and recovered in like manner, and with the like powers and remedies in all respects, as such rate, and shall be paid by the overseers, according to the order of the vestry, to such person as shall be appointed by the commissioners (*h*) to receive the same, and his receipt shall be a sufficient discharge to the overseers for the same, and shall be allowed accordingly in passing their accounts.

18. The money raised for defraying the expenses of carrying this Act into execution, and the income arising from the baths and washhouses and open bathing places in the parish, shall be applied by the commissioners (*h*) in or toward defraying the expenses of carrying this Act into execution in the parish: and whenever, after repayment of all moneys borrowed for the purpose of carrying this Act into execution in the parish, and the interest thereof, and after satisfying all the liabilities of the commissioners with reference to the execution of this Act in the parish, and providing such a balance as shall be deemed by the commissioners sufficient to meet their probable liabilities during the then next year, there shall be at the time of holding the meeting of the vestry at which the yearly report of the auditors shall be produced any surplus money at the disposal of the commissioners, they shall pay the same to the overseers in aid of the rate for the relief of the poor of the parish.

19. The vestries of any two or more neighbouring parishes which shall have respectively adopted this Act may concur in carrying this Act into execution in such parishes in such manner not inconsistent with the provisions of this Act,

(*h*) **Commissioners.**—See note (*g*) on page 713.

(*i*) **Audit of accounts.**—Where the powers and duties of the commissioners in any parish or district in the Metropolis are conferred on the sanitary authority (see note to sec. 33, *post*) the order of the Local Government Board making the transfer usually provides that the above provisions as to the audit of accounts shall not apply, but that the accounts of the sanitary authority, acting as the authority under the Baths and Washhouses Acts, shall be audited in like manner and subject to the same incidents and consequences as the other accounts of the sanitary authority and their officers.



and for such time, as they shall mutually agree; and for that purpose it may, with the approval of such *Secretary of State* (*k*), be agreed on between such vestries that any public baths and washhouses and open bathing places shall be erected and made in any one of such parishes, to be vested in the commissioners (*l*) thereof, and that the expenses of carrying this Act into execution with reference to the same shall be borne by such parishes in such proportions as such vestries shall mutually agree, and the proportion for each of such parishes of such expenses shall be chargeable upon and paid out of the moneys to be raised for the relief of the poor of the same respective parish accordingly; and, according and subject to the terms which shall have been so agreed on, the commissioners appointed for each of such parishes shall, in the management of the said baths and washhouses and open bathing places, form one body of commissioners, and shall act accordingly in the execution of this Act, and the accounts and vouchers of such commissioners shall be examined and reported on by the auditors of each of such parishes; and the surplus money at the disposal as aforesaid of such commissioners shall be paid to the overseers of such parishes respectively in the same proportions as those in which such parishes shall be liable to such expenses.

9 & 10 Vict.  
c. 74.

carrying this Act into execution, subject to the approval of Local Government Board.

20. And for the more easy execution of the purposes of this Act, be it enacted, that the commissioners of every such parish shall be a body corporate, with perpetual succession, which shall not be deemed to be interrupted by any partial or total vacancy from time to time in their office, by the name of "the commissioners (*l*) for public baths and washhouses in the parish of ( ) in the county of ( )," and by that name may sue and be sued in all courts, and before all justices and others, and may have and use a common seal, and by that name may take, hold, and convey any lands vested in them for the purposes of this Act.

Incorporation of commissioners.

21. For carrying this Act into execution in any borough or parish respectively, the council, with the approval of the *Treasury* (*m*), and the commissioners, with the sanction of the vestry, and also with the approval of the *Treasury* (*m*), may from time to time borrow at interest, on the security of a mortgage, as the case may be, of the borough fund, or of the rates for the relief of the poor of the parish, the money which may be by them respectively required, and shall apply the moneys so borrowed accordingly.

Councils, &c. may borrow money for the purposes of the Act with the approval of the Local Government Board.

22. The commissioners for carrying into execution an Act passed in the second session of the fifth year of the reign of Her Majesty, intituled "An Act to authorise the Advance of Money out of the Consolidated Fund to a limited Amount for carrying on Public Works and Fisheries and Employment of the Poor, and to amend the Acts authorising the Issue of Exchequer Bills for the like Purposes" (*n*), may from time to time make to . . . the commissioners of any such parish, for the purposes of this Act, any loan under the provisions of the recited Act or the several Acts therein recited or referred to, upon security of the rates for the relief of the poor of the parish.

The Public Works Loan Commissioners may advance money for the purposes of this Act.

23. The provisions of the Companies Clauses Consolidation Act, 1845 (*o*), with respect to the borrowing of money by any company on mortgage, and the provisions of the same Act with respect to the accountability of the officers of the company, and the provisions of the same Act with respect to the making of bye-laws, subject to the provision hereinafter contained (*p*), and the provisions of the same Act with respect to the recovery of damages not specially provided for, and penalties, so far as such provisions may respectively be applicable to the purposes of this Act, shall be respectively incorporated with this Act; and the

8 & 9 Vict. c. 16, incorporated with this Act for certain purposes.

(*k*) **Secretary of State.**—Now the Local Government Board, Local Government Board Act, 1871 (34 & 35 Vict. c. 70).

(*l*) **Commissioners.**—See note (*q*) on p. 716.

(*m*) **Treasury.**—Now the Local Government Board, Baths and Washhouses Act, 1878, sec. 9, *post*.

(*n*) **5 & 6 Vict. c. 9.**—This Act is repealed and replaced by the Public Works Loans Act, 1875 (38 & 39 Vict. c. 89), as amended by subsequent Acts.

(*o*) **Companies Clauses Consolidation Act, 1845.**—See the incorporated sections of this Act, *post*.

(*p*) **Provision hereinafter contained.**—See sec. 34, *post*, for further provision as to bye-laws.



9 & 10 Vict.  
c. 74.

expressions in such provisions applicable to the company and the directors shall apply as regards a borough to the council, and as regards a parish to the commissioners (*q*); and all deeds and writings which under such provisions are required or directed to be made or executed under the common seal of the company shall in the application of such provisions to this Act be deemed to be required or directed to be made or executed as regards a borough under the common seal of the mayor, aldermen, and burgesses, and as regards a parish under the common seal of the commissioners (*q*); and so much of such provisions as are applicable to the "secretary of the company" shall apply to the clerk; and in such of the said provisions as relate to the inspection of accounts as regards a borough the burgesses, and as regards a parish the ratepayers, shall have the privileges of shareholders.

Council may appropriate, with consent of the Treasury, lands vested in the mayor, &c. Commissioners may, with approval of vestry, &c., appropriate lands belonging to parish; or contract for purchase of the same.

Councils and commissioners may erect, &c. public baths and wash-houses and open bathing places.

Councils and commissioners may enter into contracts for the purposes of this Act.

No contract above 100*l*. to be entered into without notice.

24. In any such borough the council, with the approval of the Treasury, may from time to time appropriate for the purposes of this Act in the borough any lands vested in the mayor, aldermen, and burgesses; and in any such parish the commissioners (*q*) appointed under this Act, with the approval of the vestry and of the guardians of the poor of the parish (if any), and of the *Poor Law Commissioners for England and Wales* (*r*), may from time to time appropriate for the purposes of this Act in the parish any lands vested in such guardians, or in the churchwardens, or in the churchwardens and overseers of the parish, or in any feoffees, trustees, or others, for the general benefit of the parish; and in any such parish (*s*) the commissioners, with the approval of the vestry, and in any such borough the council, may from time to time contract for the purchasing or renting of any lands necessary for the purposes of this Act, and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the commissioners in the case of a parish.

25. The council and commissioners (*q*) respectively may from time to time, on any lands so appropriated, purchased, or rented, or contracted so to be respectively, erect any buildings suitable for public baths and washhouses, and as to such washhouses either with or without open drying grounds, and make any open bathing places, and convert any buildings into public baths and washhouses, and may from time to time alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite furniture, fittings, and conveniences.

26. The council and commissioners (*q*) respectively may from time to time enter into any contract with any persons or companies for building and making, and for altering, enlarging, repairing, and improving such public baths and washhouses and open bathing places, and for supplying the same respectively with water, and for lighting the same respectively, and for fitting up the same respectively, and for furnishing any materials and things, and for executing and doing any other works and things necessary for the purposes of this Act; which contracts respectively shall specify the several works and things to be executed, furnished, and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished and done, and the penalties to be suffered in cases of non-performance; and all such contracts, or true copies thereof, shall be entered in books to be kept for that purpose: Provided always, that no contract above the value or sum of one hundred pounds shall be entered into by the council or the commissioners, for the purposes of this Act, unless previous to the making thereof fourteen days' notice shall be given in one or more of the public newspapers published in the county in which the borough or parish shall be situated, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered to the council or commissioners at a certain time and place in such notice to be mentioned, but it shall not be incumbent on the council or commissioners to contract with the person offering the lowest price.

(*q*) **Commissioners.**—As to the transfer of the powers, &c. of the commissioners to the sanitary authority, see note to sec. 33. *post*.

(*r*) **Poor Law Commissioners.**—Now the Local Government Board. Local Government Board Act, 1871 (34 & 35 Vict. c. 70).

(*s*) **In any such parish.**—The power conferred by the above section to purchase or rent lands for the purposes of the Act "shall extend to lands in the immediate neighbourhood of such borough or parish as is therein referred to." Baths and Wash-houses Act, 1882 (45 & 46 Vict. c. 30), sec. 3.

**27.** The council of any such borough, and the commissioners (*t*), with the approval of the vestry of any such parish, may, if they shall think fit, contract for the purchase (*u*) or lease of any baths and washhouses already or hereafter to be built and provided in any such borough or parish (*w*), and appropriate the same to the purposes of this Act, with such additions or alterations as they shall respectively deem necessary; and the trustees of any public baths and washhouses which have been already or may hereafter be built or provided in any such borough or parish (*w*) by private subscriptions or otherwise may, with the consent of the council of any such borough, or with the consent of the commissioners, and approval of the vestry of any such parish, and with the consent of a majority of the committee or other persons by whom they were appointed trustees, sell or lease the said baths and washhouses to the said council or commissioners respectively, or make over to them the management of such baths and washhouses; and in all such cases the baths and washhouses so purchased or leased, or of which the management has been so made over, shall be deemed to be within the provisions of this Act as fully as if they had been built or provided by the said council or commissioners; and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the commissioners in the case of a parish.

9 & 10 Vict.  
c. 74.

Council or commissioners may purchase existing baths, &c.

**28.** Any commissioners of waterworks, trustees of waterworks, water companies, canal companies, gas companies, and other corporations, bodies, and persons having the management of any waterworks, canals, reservoirs, wells, springs, and streams of water and gas works respectively, may in their discretion grant and furnish supplies of water or gas for such public baths and washhouses and open bathing places either without charge or on such other favourable terms as they shall think fit.

Power to water and gas companies to supply water and gas to baths, &c.

**29.** Nothing in this Act contained shall render any member of the council of any borough, or any commissioner (*t*), personally, or any of their lands, goods, chattels, or moneys (other than such lands, goods, chattels, or moneys as may be vested in or under the management or control of the council or commissioners respectively in pursuance of this Act), liable to the payment of any sum of money as or by way of compensation or satisfaction for or in respect of any thing done or suffered in due pursuance of this Act (*y*).

Councillors and commissioners not to be personally liable.

**30.** Every person who shall feel aggrieved by any byelaw, order, direction, or appointment of or by the council or commissioners (*t*) shall have the like power of appeal to the general quarter sessions as under the provisions of the Companies Clauses Consolidation Act, 1845, incorporated with this Act, he might have if feeling aggrieved by any determination of any justice with respect to any penalty (*z*).

Persons may appeal against orders of councils and commissioners.

**31.** The council, with the approval of the Treasury, and the commissioners (*t*) appointed under this Act, with the approval of the vestry, and of the Treasury respectively, may from time to time make sale and dispose of any lands vested in the mayor, aldermen, and burgesses, or in the commissioners respectively for the purposes of this Act, and apply the proceeds in or towards the purchase of other lands better adapted for such purposes, and may, with the like approval, exchange any lands so vested, and either with or without paying or receiving any money for equality of exchange, for any other lands better adapted for such

Council, &c. empowered to make sale and exchange of lands, with consent.

(*t*) **Commissioners.**—As to the transfer of the powers, &c., of the commissioners to the sanitary authority, see note to sec. 33. *post*.

(*u*) **Contract for purchase.**—See the Irish case of *Mulholland v. Belfast Corporation*, 9 Ir. Ch. R. 204, 292, decided under similar provisions of the Baths and Washhouses (Ireland) Act, 1846 (9 & 10 Vict. c. 87), sec. 27.

(*t*) **In any such borough or parish.**—The above section “shall be amended by the addition of the words, ‘or in the immediate neighbourhood of such borough or parish,’ to the words, ‘any such borough or parish,’ wherever such last-mentioned words occur in the said section.” Baths and Washhouses Act, 1882 (45 & 46 Vict. c. 30), sec. 2.

(*y*) **Liability.**—It was held that a corporation was bound to exercise ordinary care and diligence in providing machines reasonably safe for use in a washhouse provided under this Act, and that they were liable for injuries to a person using the washhouse caused by a machine which had been negligently constructed. *Cowley v. Sunderland (Mayor, &c., of)*, 6 H. & N. 565; 30 L. J. Ex. 127.

(*z*) **Appeal to quarter sessions.**—See the Companies Clauses Consolidation Act, 1845, secs. 159 and 160, *post*, p. 726.



9 & 10 Vict.  
c. 74.

When baths, &c. are considered too expensive they may, with approval of Treasury, be sold, and proceeds of sale carried to borough fund or poor's rate.

Management to be vested in councils and parish commissioners.

Council, &c. may make byelaws for regulating the use of baths and washhouses, &c., and charges thereat.

Byelaws to be approved by the Secretary of State.

Copies or abstracts of byelaws to be hung up in every bath room, &c.

Proportion of baths for the labouring classes.

As to recovery of charges at washhouses.

purposes, and the mayor, aldermen, and burgesses, or the commissioners, may convey the lands so sold or exchanged accordingly.

**32.** Whenever any public baths, or washhouses, or open bathing places, which shall have been for seven years or upwards established under the authority of this Act shall be determined by the council or by the vestry, in accordance with a previous recommendation of the commissioners (*b*), to be unnecessary or too expensive to be kept up, the council or commissioners (*b*), with the approval of the Treasury, may sell the same for the best price that can reasonably be obtained for the same, and the mayor, aldermen, and burgesses, or the commissioners, shall convey the same accordingly; and the purchase money shall be paid to such person as the council or commissioners shall appoint, and his receipt shall be a sufficient discharge for the same; and the net proceeds of such sale shall be paid to the credit of the borough fund, or of the rate for the relief of the poor of the parish.

**33.** The general management, regulation and control of the public baths and washhouses and open bathing places established under this Act shall, subject to the provisions of this Act, be as to any borough vested in and exercised by the council, and as to any parish vested in and exercised by the commissioners (*b*).

**34.** The byelaws which the council and commissioners respectively may from time to time make, alter, repeal, and enforce shall include such byelaws for the management, use, and regulation of the public baths and washhouses and open bathing places, and of the persons resorting thereto respectively, and for determining from time to time the charges for the use of such baths and washhouses and open bathing places respectively, as the council and commissioners (*b*) respectively shall think fit, and they respectively may appoint any penalty not exceeding five pounds for any and every breach, whether by their officers or servants, or by other persons, of any byelaw made by them respectively; and such byelaws shall make sufficient provision for the several purposes respectively expressed in the schedule A. to this Act (*c*): Provided always, that no byelaw made under the authority of this Act shall be of any legal force until the same shall have received the approval of one of *Her Majesty's principal Secretaries of State* (*d*).

**35.** A printed copy or sufficient abstract of the byelaws relating to the use of the baths and open bathing places respectively shall be put up in every bath room and open bathing place respectively; and a printed copy or sufficient abstract of the byelaws relating to the use of the washhouses shall be put up in some convenient place near every washing tub or trough, or every pair of washing tubs or troughs, in every washhouse.

**36.** The number of baths for the labouring classes in any building or buildings under the management of the same council or commissioners shall not be less than twice the number of the baths of any higher class if but one, or of all the baths of any higher classes if more than one, in the same building or buildings.

**37.** [*Rep. by 38 & 39 Vict. c. 66. Statute Law Revision.*]

**38.** For the recovery of the charges at such washhouses the officers, servants, and others having the management thereof may detain the clothes brought to be washed or other goods and chattels of any person refusing to pay the charge to which such person may be liable, or any part thereof, till full payment thereof be made, and in case such payment be not made within seven days may sell such clothes, goods, and chattels, or any of them, returning the surplus proceeds of

(*b*) **Exercised by the commissioners.**—In urban districts the powers and duties of the commissioners under the Baths and Washhouses Acts are exercised by the urban authority. Public Health Act, 1875 (38 & 39 Vict. c. 55), sec. 10. In rural parishes they are exercised by the parish council, whilst in London they may, on the application of a sanitary authority, be transferred by the Local Government Board to such sanitary authority. Local Government Act, 1894, secs. 7 and 33 (1) and (6), *ante*, vol. i.

(*c*) **Byelaws.**—For further provisions as to byelaws, see sec. 23, *ante*, the Companies Clauses Consolidation Act, 1845, secs. 124—127, *post*, and the Baths and Washhouses Act, 1878, sec. 6, *post*. Model byelaws under these Acts have been issued by the Local Government Board. As to byelaws generally, their construction, effect, and validity, see note to the Municipal Corporations Act, 1882, sec. 23, *ante*, vol. i.

(*d*) **Secretaries of State.**—Now the Local Government Board. Local Government Board Act, 1871 (34 & 35 Vict. c. 70).

such sale, after deducting the unpaid charge and the expenses of such detention and sale, and the unsold articles, if any, on demand, to such person.

9 & 10 Vict.  
c. 74.

39. If any clerk or other officer, or any servant who shall be in anywise employed by any council or commissioners in pursuance of this Act, shall exact or accept any fee or reward whatsoever for or on account of anything done or forborne or to be done or forborne in pursuance of this Act, or on any account whatsoever relative to putting this Act into execution, other than such salaries, wages, or allowances as shall have been appointed by the council or commissioners, or shall in anywise be concerned or interested in any bargain or contract made by the council or commissioners for or on account of anything done or forborne or to be done or forborne in pursuance of this Act, or on any account whatsoever relative to the putting of this Act into execution, or if any person during the time he holds the office of member of the council or commissioner shall exact or accept any such fee or reward, or shall accept or hold any office or place of trust created by virtue of this Act, or be concerned directly or indirectly in any such bargain or contract, every such person so offending shall be incapable of ever serving or being employed under this Act, and shall for every such offence also forfeit the sum of fifty pounds (e).

Penalty for council, commissioners, or officers taking fees beyond salaries, or being interested in contracts.

40. Such part of any penalty recovered under this Act as shall not be awarded to the informer shall be paid to the credit as regards a borough of the borough fund, and as regards a parish of the rate for the relief of the poor thereof (f).

Application of penalties.

#### SCHEDULES REFERRED TO BY THE FOREGOING ACT.

##### SCHEDULE A.

###### *Byelaws to be made in all Cases (c).*

For securing that the baths and washhouses and open bathing places shall be under the due management and control of the officers, servants, or others appointed or employed in that behalf by the council or commissioners.

For securing adequate privacy to persons using the baths and washhouses and open bathing places, and security against accidents to persons using the open bathing places.

For securing that men and boys above eight years old shall bathe separately from women and girls and children under eight years old.

For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour, and nuisances.

For determining the duties of the officers, servants, and others appointed by the council or commissioners.

In parishes. For regulating the procedure of the commissioners.

##### SCHEDULE B.

[*Repealed by 38 & 39 Vict. c. 66. Statute Law Revision.*]

#### COMPANIES CLAUSES CONSOLIDATION ACT, 1845 (h).

8 Vict. c. 16. An Act for consolidating in One Act certain Provisions usually inserted in Acts with respect to the Constitution of Companies incorporated for carrying on Undertakings of a public Nature.

[8th May, 1845]

2. And with respect to the construction of this Act, and of other Acts to be incorporated therewith, be it enacted as follows :

Interpretations in this Act :

(e) *Fee or reward.*—See also the Public Bodies Corrupt Practices Act, 1889, *post*, tit. "*Public Bodies, &c.*"

(f) *Application of penalties.*—See also sec. 152 of the Companies Clauses Consolid. Act, 1845, *post*, p. 725. Under a similar provision of the Gaming Act, 1854 (17 & 18 Vict. c. 38), sec. 8, it was held that in the Metropolitan Police District such part of the penalty as was not paid to the informer was payable to the Police Receiver, by virtue of the Metropolitan Police Courts Act, 1839 (2 & 3 Vict. c. 71), sec. 47. *Wray v. Ellis*, 1 E. & E. 276 ; 28 L. J. M. C. 45. But the soundness of this decision was doubted in *Reg. v. Titterton*, *post*, p. 883.

(h) *Application of Act.*—The following provisions of this Act are incorporated with the Baths and Washhouses Act, 1846, by secs. 23 and 30 of that Act, *ante*.



|                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8 Vict. c. 16.                                | The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed incorporating a joint stock company for the purpose of carrying on any undertaking, and with which this Act shall be so incorporated as aforesaid; and the word "prescribed" used in this Act, in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act; and the sentence in which such word shall occur shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special Act" had been used; and the expression "the undertaking" shall mean the undertaking or works, of whatever nature, which shall by the special Act be authorised to be executed. |
| "The special Act :"                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| "Prescribed :"                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| "The undertaking."                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Interpretations in this and the special Act : | 3. The following words and expressions both in this and the special Act shall have the several meanings hereby assigned to them, unless there be something in the subject or the context repugnant to such construction (that is to say)—                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Number :                                      | Words importing the singular number only shall include the plural number; and words importing the plural number only shall include the singular number :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Gender :                                      | Words importing the masculine gender only shall include females :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| "Lands :"                                     | The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| "Lease :"                                     | The word "lease" shall include an agreement for a lease :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| "Month :"                                     | The word "month" shall mean calendar month :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                               | * * * * *                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| "Oath :"                                      | The word "oath" shall include affirmation in the case of Quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| "County :"                                    | The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| "Justice :"                                   | The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or other place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where any matter shall be authorised or required to be done by two justices the expression "two justices" shall be understood to mean two justices assembled and acting together in petty sessions :                                                                                                                                                                                                                                                                                                                                                                 |
| "Two justices :"                              | The expression "the company" shall mean the company constituted by the special Act :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| "The company :"                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| "Directors :"                                 | The expression "the directors" shall mean the directors of the company, and shall include all persons having the direction of the undertaking, whether under the name of directors, managers, committee of management, or under any other name :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| "Shareholder :"                               | The word "shareholder" shall mean shareholder, proprietor, or member of the company; and in referring to any such shareholder, expressions properly applicable to a person shall be held to a corporation : and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| "Secretary."                                  | The expression "the secretary" shall mean the secretary of the company, and shall include the word "clerk."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Short title.                                  | 4. In citing this Act in other Acts of Parliament and in legal instruments it shall be sufficient to use the expression "The Companies Clauses Consolidation Act, 1845."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                                               | * * * * *                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Power to borrow money.                        | And with respect to the borrowing of money by the company on mortgage or bond, be it enacted as follows :                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Power to borrow money.                        | 38. If the company be authorised by the special Act to borrow money on mortgage or bond, it shall be lawful for them, subject to the restrictions contained in the special Act, to borrow on mortgage or bond such sums of money as shall from time to time, by an order of a general meeting of the company, be authorised to be borrowed, not exceeding in the whole the sum prescribed by the special Act, and for securing the repayment of the money so borrowed, with interest, to mortgage the undertaking, and the future calls on the shareholders, or to give bonds in manner hereinafter mentioned.                                                                                                                                                                                                                   |
| Power to re-borrow.                           | 39. If, after having borrowed any part of the money so authorised to be borrowed on mortgage or bond, the company pay off the same, it shall be lawful for them again to borrow the amount so paid off, and so from time to time; but                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

such power of reborrowing shall not be exercised without the authority of a general meeting of the company, unless the money be so reborrowed in order to pay off any existing mortgage or bond.

8 Vict. c. 16.

40. Where by the special Act the company shall be restricted from borrowing any money on mortgage or bond until a definite portion of their capital shall be subscribed or paid up, or where by this or the special Act the authority of a general meeting is required for such borrowing, the certificate of a justice that such definite portion of the capital has been subscribed or paid up, and a copy of the order of a general meeting of the company authorising the borrowing of any money, certified by one of the directors or by the secretary to be a true copy, shall be sufficient evidence of the fact of the capital required to be subscribed or paid up having been so subscribed or paid up, and of the order for borrowing money having been made; and upon production to any justice of the books of the company, and of such other evidence as he shall think sufficient, such justice shall grant the certificate aforesaid.

Evidence of authority for borrowing.

41. Every mortgage and bond for securing money borrowed by the company shall be by deed under the common seal of the company, duly stamped, and wherein the consideration shall be truly stated; and every such mortgage deed or bond may be according to the form in the schedule (C.) or (D.) to this Act annexed, or to the like effect.

Mortgages and bonds to be stamped.

42. The respective mortgagees shall be entitled one with another to their respective proportions of the tolls, sums, and premises comprised in such mortgages, and of the future calls payable by the shareholders, if comprised therein, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees respectively, and to be repaid the sums so advanced, with interest, without any preference one above another by reason of priority of the date of any such mortgage, or of the meeting at which the same was authorised.

Rights of mortgagees.

43. No such mortgage (although it should comprise future calls on the shareholders) shall, unless expressly so provided, preclude the company from receiving and applying to the purposes of the company any calls to be made by the company.

Application of calls, notwithstanding mortgage.

44. The respective obligees in such bonds shall, proportionally according to the amount of the moneys secured thereby, be entitled to be paid, out of the tolls or other property or effects of the company, the respective sums in such bonds mentioned, and thereby intended to be secured, without any preference one above another by reason of priority of date of any such bond, or of the meeting at which the same was authorised, or otherwise howsoever.

Rights of obligees.

45. A register of mortgages and bonds shall be kept by the secretary, and within fourteen days after the date of any such mortgage or bond an entry or memorial, specifying the number and date of such mortgage or bond, and the sums secured thereby, and the names of the parties thereto, with their proper additions, shall be made in such register; and such register may be perused at all reasonable times by any of the shareholders, or by any mortgagee or bond creditor of the company, or by any person interested in any such mortgage or bond, without fee or reward.

Register of mortgages and bonds.

46. Any party entitled to any such mortgage or bond may from time to time transfer his right and interest therein to any other person; and every such transfer shall be by deed duly stamped, wherein the consideration shall be truly stated; and every such transfer may be according to the form in the schedule (E.) to this Act annexed, or to the like effect.

Transfers of mortgages and bonds to be stamped.

47. Within thirty days after the date of every such transfer, if executed within the United Kingdom, or otherwise within thirty days after the arrival thereof in the United Kingdom, it shall be produced to the secretary, and thereupon the secretary shall cause an entry or memorial thereof to be made in the same manner as in the case of the original mortgage; and after such entry every such transfer shall entitle the transferee to the full benefit of the original mortgage or bond in all respects; and no party, having made such transfer, shall have power to make void, release, or discharge the mortgage or bond so transferred, or any money thereby secured; and for such entry the company may demand a sum not exceeding the prescribed sum, or, where no sum shall be prescribed, the sum of two shillings and sixpence; and until such entry the company shall not be in any manner responsible to the transferee in respect of such mortgage.

Transfers of mortgages and bonds to be registered.

8 Vict. c. 16.

Payment of interest on moneys borrowed.

Transfers of interest to be stamped.

Repayment of money borrowed at a time fixed.

Repayment of money borrowed where no time fixed.

Interest to cease on expiration of notice to pay off mortgage or bond.

Arrears of interest, when to be enforced by appointment of a receiver.

Arrears of principal and interest.

Appointment of receiver.

48. The interest of the money borrowed upon any such mortgage or bond shall be paid at the periods appointed in such mortgage or bond, and if no period be appointed, half-yearly, to the several parties entitled thereto, and in preference to any dividends payable to the shareholders of the company.

49. The interest on any such mortgage or bond shall not be transferable, except by deed duly stamped.

50. The company may, if they think proper, fix a period for the repayment of the principal money so borrowed, with the interest thereof, and in such case the company shall cause such period to be inserted in the mortgage deed or bond; and upon the expiration of such period the principal sum, together with the arrears of interest thereon, shall, on demand, be paid to the party entitled to such mortgage or bond; and if no other place of payment be inserted in such mortgage deed or bond, such principal and interest shall be payable at the principal office or place of business of the company.

51. If no time be fixed in the mortgage deed or bond for the repayment of the money so borrowed, the party entitled to the mortgage or bond may, at the expiration or at any time after the expiration of twelve months from the date of such mortgage or bond, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose; and in the like case the company may at any time pay off the money borrowed, on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee or bond creditor shall be delivered to the secretary or left at the principal office of the company, and if given by the company shall be given either personally to such mortgagee or bond creditor or left at his residence, or if such mortgagee or bond creditor be unknown to the directors, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the London or Dublin Gazette, according as the principal office of the company shall be in England or Ireland, and in some newspaper as after mentioned.

52. If the company shall have given notice of their intention to pay off any such mortgage or bond at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable on such mortgage or bond, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the company shall fail to pay the principal and interest due at the expiration of such notice on such mortgage or bond.

53. Where by the special Act the mortgagees of the company shall be empowered to enforce the payment of the arrears of interest, or the arrears of principal and interest, due on such mortgages, by the appointment of a receiver, then, if within thirty days after the interest accruing upon any such mortgage has become payable, and, after demand thereof in writing, the same be not paid, the mortgagee may, without prejudice to his right to sue for the interest so in arrear in any of the superior courts of law or equity, require the appointment of a receiver, by an application to be made as hereinafter provided; and if within six months after the principal money owing upon any such mortgage has become payable, and after demand thereof in writing, the same be not paid, the mortgagee, without prejudice to his right to sue for such principal money, together with all arrears of interest, in any of the superior courts of law or equity, may, if his debt amount to the prescribed sum alone, or if his debt does not amount to the prescribed sum, he may, in conjunction with other mortgagees whose debts, being so in arrear, after demand as aforesaid, shall, together with his, amount to the prescribed sum, require the appointment of a receiver, by an application to be made as hereinafter provided.

54. Every application for a receiver in the cases aforesaid shall be made to two justices, and on any such application it shall be lawful for such justices, by order in writing, after hearing the parties, to appoint some person to receive the whole or a competent part of the tolls or sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the tolls or sums aforesaid, be fully paid; and upon such appointment being made all such tolls and sums of money as aforesaid shall be paid to and received by the person so to be appointed; and the money so to be received shall be so much money received by or to the use of the



party to whom such interest, or such principal and interest, as the case may be, shall be then due, and on whose behalf such receiver shall have been appointed; and after such interest and costs, or such principal, interest, and costs, have been so received, the power of such receiver shall cease.

8 Vict. c. 16.

55. At all seasonable times the books of account of the company shall be open to the inspection of the respective mortgagees and bond creditors thereof, with liberty to take extracts therefrom, without fee or reward.

Access to account books by mortgagees.

\* \* \* \* \*

And with respect to the accountability of the officers of the company, be it enacted as follows:

*Accountability of officers.*

109. Before any person intrusted with the custody or control of moneys, whether treasurer, collector, or other officer of the company, shall enter upon his office, the directors shall take sufficient security from him for the faithful execution of his office.

Security to be taken from officers intrusted with money. Officers to account, on demand.

110. Every officer employed by the company shall from time to time, when required by the directors, make out and deliver to them or to any person appointed by them for that purpose, a true and perfect account in writing under his hand of all moneys received by him on behalf of the company; and such account shall state how, and to whom, and for what purpose such moneys shall have been disposed of; and, together with such account, such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the directors, or to any person appointed by them to receive the same, all moneys which shall appear to be owing from him upon the balance of such accounts.

111. If any such officer fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for three days after being thereunto required he fail to deliver up to the directors, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things, in his possession or power, relating to the execution of this or the special Act, or any Act incorporated therewith, or belonging to the company, then, on complaint thereof being made to a justice, such justice shall summon such officer to appear before two or more justices at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such officer, or in his absence upon proof that such summons was personally served upon him, or left at his last known place of abode, such justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appear, either upon confession of such officer or upon evidence, or upon inspection of the account, that any moneys of the company are in the hands of such officer, or owing by him to the company, such justices may order such officer to pay the same; and if he fail to pay the amount it shall be lawful for such justices to grant a warrant to levy the same by distress, or, in default thereof, to commit the offender to gaol, there to remain without bail for a period not exceeding three months, unless the same be sooner paid.

Summary remedy against parties failing to account.

112. If any such officer refuse to make out such account in writing, or to produce and deliver to the justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things, in his possession or power, belonging to the company, such justices may lawfully commit such offender to gaol, there to remain until he shall have delivered up all the vouchers and receipts, if any, in his possession or power, relating to such accounts, and have delivered up all books, papers, writings, property, effects, matters, and things, if any, in his possession or power, belonging to the company.

Officers refusing to deliver up documents, &c. to be imprisoned.

113. Provided always, that if any director or other person acting on behalf of the company shall make oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe, that it is the intention of any such officer as aforesaid to abscond, it shall be lawful for the justice before whom the complaint is made, instead of issuing his summons, to issue his warrant for the bringing such officer before such two justices as aforesaid; but no person executing such warrant shall keep such officer in custody longer than twenty-four hours, without bringing him before some justice; and it shall be lawful for the justice before whom such officer may be brought either to discharge such officer, if he think there is no sufficient ground for his detention, or to order

Where officer about to abscond a warrant may be issued in the first instance.



8 Vict. c. 16.

such officer to be detained in custody, so as to be brought before two justices at a time and place to be named in such order, unless such officer give bail to the satisfaction of such justice for his appearance before such justices to answer the complaint of the company.

Sureties not to be discharged.

114. No such proceeding against or dealing with any such officer as aforesaid shall deprive the company of any remedy which they might otherwise have against such officer, or any surety of such officer.

#### *Byelaws.*

Power to make byelaws for the officers of the company.

And with respect to the making of byelaws, be it enacted as follows (i):

124. It shall be lawful for the company from time to time to make such byelaws as they think fit, for the purpose of regulating the conduct of the officers and servants of the company, and for providing for the due management of the affairs of the company in all respects whatsoever, and from time to time to alter or repeal any such byelaws, and make others, provided such byelaws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special Act; and such byelaws shall be reduced into writing, and shall have affixed thereto the common seal of the company; and a copy of such byelaws shall be given to every officer and servant of the company affected thereby.

Fines for breach of such byelaws.

125. It shall be lawful for the company, by such byelaws, to impose such reasonable penalties upon all persons, being officers or servants of the company, offending against such byelaws, as the company think fit, not exceeding five pounds for any one offence.

Byelaws to be so framed as that penalties may be mitigated.

126. All the byelaws to be made by the company shall be so framed as to allow the justice before whom any penalty imposed thereby may be sought to be recovered to order a part only of such penalty to be paid, if such justice shall think fit.

Evidence of byelaws.

127. The production of a written or printed copy of the byelaws of the company, having the common seal of the company affixed thereto, shall be sufficient evidence of such byelaws in all cases of prosecution under the same.

#### *Recovery of damages and penalties.*

Provision for damages not otherwise provided for.

And with respect to the recovery of damages not specially provided for, and penalties, be it enacted as follows:

142. In all cases where any damages, costs, or expenses are by this or the special Act, or any Act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by two justices; and if the amount so ascertained be not paid by the company or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the company or other party liable as aforesaid; and the justices by whom the same shall have been ordered to be paid, or either of them, on application, shall issue their or his warrant accordingly.

Distress against the treasurer.

143. If sufficient goods of the company cannot be found whereon to levy any such damages, costs, or expenses, payable by the company, the same may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the company; and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the company coming into his custody or control, or he may sue the company for the same.

Method of proceeding before justices in questions of damages, &c.

144. Where in this or the special Act, or any Act incorporated therewith, any question of compensation, expenses, charges, or damages is referred to the determination of any one justice, or more, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices, as the case may require, at a time and place to be

(i) **Byelaws.**—Byelaws made with respect to baths and washhouses require to be confirmed by the Local Government Board. Baths and Washhouses Act, 1846, secs. 23 and 34, and note thereto, *ante*.

named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice, or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, on oath; and the costs of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

8 Vict. c. 16.

145. The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the special Act, or any Act incorporated therewith, or by any byelaw of the company affecting other persons than the shareholders, officers, or servants of the company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and where any such penalties are of local application shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

Publication of penalties.

146. If any person pull down or injure any board put up or affixed as required by this or the special Act, or any Act incorporated therewith, for the purpose of publishing any byelaw or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalty for defacing boards used for such publication.

147. Every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any byelaw made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices (k) . . .

Penalties to be summarily recovered before two justices.

150. Where in this or the special Act, or any Act incorporated therewith, any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress how to be levied.

151. No distress levied by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Distress not unlawful for want of form.

152. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, for the benefit of the poor of such parish (l) . . .

Application of penalties.

153. [Repealed by Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 4.]

154. If, through any act, neglect, or default on account whereof any person shall have incurred any penalty imposed by this or the special Act, or any Act incorporated therewith, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the justices by whom the party incurring such

Damage to be made good in addition to penalty.

(k) **Summary proceedings.**—The remainder of sec. 147, and the whole of secs. 148 and 149, are repealed by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 4. As to the time and manner of taking summary proceedings, see note to sec. 227 of the Metropolis Management Act, 1855, *ante*, vol. i.

(l) **Penalties.**—See Baths and Washhouses Act, 1846, sec. 40, *ante*. The remainder of sec. 152 is repealed by the Summary Jurisdiction Act, 1845.

8 Vict. c. 16. — penalty shall have been convicted; and on nonpayment of such damages, on demand, the same shall be levied by distress, and such justices, or one of them, shall issue their or his warrant accordingly.

Penalty on witnesses making default.

155. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction, under the provisions of this or the special Act, or any Act incorporated therewith, at a time and place mentioned in such summons and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

Transient offenders.

156. It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the special Act, or any Act incorporated therewith, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient dispatch, before some justice, without any warrant or other authority than this or the special Act; and such justice shall proceed with all convenient dispatch to the hearing and determining of the complaint against such offender.

157. [*Repealed by Summary Jurisdiction Act, 1884.*]

Proceedings not to be quashed for want of form.

158. No proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

*Appeal.*

159. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the special Act, or any Act incorporated therewith, such party may appeal to the general quarter sessions (*m*). . . .

Parties allowed to appeal to quarter sessions. Court to make such order as they think reasonable.

160. At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions, and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

\* \* \* \* \*

#### SCHEDULE (C.).

##### *Form of Mortgage Deed.*

“The Company.”

Mortgage, number

£

By virtue of [*here name the special Act*], we, “The Company,” in consideration of the sum of                      pounds paid to us by *A. B.* of                      do assign unto the said *A. B.*, his executors, administrators, and assigns the said undertaking [and (*in case such loan shall be in anticipation of the capital authorised to be raised*) all future calls on shareholders], and all the tolls and sums of money arising by virtue of the said Act, and all the estate, right, title, and interest of the company in the same; to hold unto the said *A. B.*, his executors, administrators, and assigns, until the said sum of                      pounds, together with interest for the same at the rate of                      for every one hundred pounds by the year, be satisfied [the principal sum to be repaid at the end of                      years from the date hereof (*in case any period be agreed upon for that purpose*)], [at or any place of payment other than the principal office of the company]. Given under our common seal, this                      day of                      in the year of our Lord                      .

(*m*) **Appeal to quarter sessions.**—The remainder of this section is repealed by the Summary Jurisdiction Act, 1884. For the time and manner of appealing see note to sec. 227 of the Metropolis Management Act, 1855, *ante*, vol. i.



SCHEDULE (D.).

*Form of Bond.*

8 Vict. c. 16.

"The  
Bond, number      Company."

£

By virtue of [*here name the special Act*], we, "The      Company," in consideration of the sum of      pounds to us in hand paid by A.B. of      do bind ourselves and our successors unto the said A.B., his executors, administrators, and assigns, in the penal sum of      pounds.

The condition of the above obligation is such, that if the said company shall pay to the said A.B., his executors, administrators, or assigns [at      (*in case any other place of payment than the principal office of the company be intended*)], on the      day of      which will be in the year one thousand eight hundred and      , the principal sum of      pounds, together with interest for the same at the rate of      pounds per centum per annum, payable half-yearly on the      day of      and      day of      then the above written obligation is to become void, otherwise to remain in full force. Given under our common seal, this day of      one thousand eight hundred and      .

SCHEDULE (E.).

*Form of Transfer of Mortgage or Bond.*

I A.B. of      in consideration of the sum of      paid to me by G.H. of      do hereby transfer to the said G.H., his executors, administrators, and assigns, a certain bond [*or mortgage*] number      made by "The      Company" to      bearing date the      day of      for securing the sum of      and interest [*if such transfer be by endorsement, the within security*], and all my right, estate, and interest in and to the money thereby secured [*and if the transfer be of a mortgage, and in and to the tolls, money, and property, thereby assigned*]. In witness whereof I have hereunto set my hand and seal, this      day of      one thousand eight hundred and      .

BATHS AND WASHHOUSES ACT, 1847 (n).

10 & 11 Vict. c. 61. An Act to amend the Act for the Establishment of Public Baths and Washhouses. [2nd July, 1847]

[*Preamble recites Baths and Washhouses Act, 1846.*]

1. The recited Act, as amended by this Act, and this Act shall be construed and be carried into execution as one Act.

2. The following words and expressions in the recited Act shall have in the said Act and this Act the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

"Parish" shall mean not only every place having separate overseers of the poor and separately maintaining its own poor, but also every place maintaining its own poor and having a vestry:

"Ratepayers" shall mean all persons for the time being assessed to and paying rates for the relief of the poor of the parish:

"Vestry" shall mean not only a vestry as defined in the said Act, but also any body of persons, by whatever name distinguished, acting by virtue of any Act of Parliament, prescription, custom, or otherwise as or instead of a vestry or select vestry.

3. . . . All acts and proceedings of any person in possession of the office of such commissioner (o), and acting in good faith as such commissioner, whether appointed before or after the passing of this Act, shall, notwithstanding his disqualification or want of qualification for or any defect or irregularity in or in any way concerning his appointment to such office, be as valid and effectual as if he were duly qualified or there had not been any such defect or irregularity.

(n) **Short title.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(o) **Commissioners.**—As to the transfer of the powers, &c., of the commissioners to the sanitary authority, see note to sec. 33 of the Baths and Washhouses Act, 1846, *ante*.

Recited Act and this Act to be construed as one.

Interpretation of expressions in recited Act and this Act.

Acts of commissioners of public baths, &c., to be valid, notwithstanding informalities.

10 & 11 Vict.  
c. 61.

Incorporation  
of 8 & 9 Vict.  
c. 18.

Council, &c.  
not to take  
lands, &c.

Proportion of  
washing  
accommo-  
dation for  
labouring  
classes.

Power to make  
charges for use  
of baths, &c.  
not exceeding  
those in the  
schedule.

4. The Lands Clauses Consolidation Act, 1845 (*p*), shall be incorporated with the recited Act and this Act: Provided always, that the council and commissioners (*q*) respectively shall not purchase or take any lands otherwise than by agreement.

5. The number of washing tubs or troughs for the labouring classes in any building or buildings under the management of the same council or commissioners (*q*) shall not be less than twice the number of the washing tubs or troughs of any higher class, if but one, or of all the higher classes if more than one, in the same building or buildings.

6. [*Repeal of so much of the recited Act as enacts that the council and commissioners respectively may make such reasonable charges for the use of the baths and washhouses and open bathing places as they think fit, not exceeding such charges as are mentioned in the schedule (B.) to that Act. Repealed by 38 & 39 Vict. c. 66. Statute Law Revision.*]

7. The council and the commissioners (*q*) respectively may from time to time make such reasonable charges for the use of the baths and washhouses and open bathing places provided under the recited Act and this Act respectively as they think fit, not exceeding the charges mentioned in the schedule annexed to this Act.

SCHEDULE to which this Act refers.

*Charges for the Baths and Washhouses and open Bathing Places.*

#### 1. BATHS FOR THE LABOURING CLASSES.

Every bath to be supplied with clean water for every person bathing alone, or for several children bathing together, and in either case with one clean towel for every bather.

For one person above eight years old:

Cold bath, or cold shower bath, any sum not exceeding . . . One penny.

Warm bath, or warm shower bath, or vapour bath, any  
sum not exceeding . . . Twopence.

For several children, not above eight years old, nor exceeding  
four, bathing together:

Cold bath, or cold shower bath, any sum not exceeding . . . Twopence.

Warm bath, or warm shower bath, or vapour bath, any  
sum not exceeding . . . Fourpence.

#### 2. BATHS OF ANY HIGHER CLASS.

Such charges as the council and the commissioners respectively think fit, not exceeding in any case three times the charges above mentioned for the several kinds of baths for the labouring classes.

#### 3. WASHHOUSES FOR THE LABOURING CLASSES.

Every washhouse to be supplied with conveniences for washing and drying clothes and other articles.

For the use by one person of one washing tub or trough, and of a copper or boiler (if any), or, where one of the washing tubs or troughs shall be used as a copper or boiler, for the use of one pair of washing tubs or troughs, and for the use of the conveniences for drying:

For one hour only in any one day, any sum not exceeding . . . One penny.

For two hours together, in any one day, any sum not  
exceeding . . . Threepence.

Any time over the hour or two hours respectively, if not exceeding five minutes, not to be reckoned.

For two hours not together, or for more than two hours in any one day, such charges as the council and the commissioners respectively think fit.

For the use of the washing conveniences alone, or of the drying conveniences alone, such charges as the council and the commissioners respectively think fit, but not exceeding in either case the charges for the use for the same time of both the washing and the drying conveniences.

(*p*) **Lands Clauses Consolidation Act, 1845.**—As to this Act, see “Cripps on the Law of Compensation,” and other works on the same subject, which is too lengthy to be dealt with here.

(*q*) **Commissioners.**—See note (*s*) on page 729.

## 4. WASHHOUSES OF ANY HIGHER CLASS.

10 & 11 Vict.  
c. 61.

Such charges as the council and the commissioners respectively think fit.

5. OPEN BATHING PLACES, where several persons bathe in the same water, for one person *one halfpenny* (r).

## BATHS AND WASHHOUSES ACT, 1878.

41 Vict. c. 14. An Act to amend the Law relating to Public Baths and Washhouses. [27th May, 1878]

[*Preamble recites Baths and Washhouses Acts, 1846 and 1847.*]

1. This Act may be cited for all purposes as the Baths and Washhouses Act, 1878. The words "covered swimming bath" in this Act shall mean a swimming bath protected by a roof or other covering from the weather.

Short title.

"Covered swimming bath."

2. This Act and the recited Acts, as amended by the Statute Law Revision Act, 1875, and the Public Health Act, 1875, and by this Act, shall be construed and carried into execution as one Act; and the words "the council and the commissioners" when used in this Act shall include the urban authority mentioned in the tenth section of the Public Health Act, 1875.

Construction of Act.  
33 & 39 Vict.  
c. 66.38 & 39 Vict.  
c. 55.

Covered swimming baths authorised.

3. All the provisions of the recited Acts respectively shall be construed to extend and to have extended from the passing of such Acts respectively to covered swimming baths as well as to baths, washhouses, and open bathing places.

As to charges for swimming baths.

4. The council and the commissioners (s) respectively may from time to time provide covered swimming baths, and make such reasonable charges for the use thereof as they shall think fit, not exceeding the charges mentioned in the schedule annexed to this Act.

Power to close swimming baths for a limited period.

5. The council and the commissioners (s) respectively may during such period, not exceeding five months in any one year, as they shall think fit, from the beginning of the month of November to the end of the month of March, close any covered swimming bath or open swimming bath, and may either keep the same closed or may establish therein a gymnasium or such other means of healthful recreation as they shall think fit, or may during such period allow any covered or open swimming bath to be used as an empty building for such purposes of healthful recreation or exercise as they shall think fit during such period as aforesaid, and may at any time allow any portion of the public baths not required by the commissioners (s) to be used for holding vestry meetings or other parochial purposes: *Provided always, that no covered or open swimming bath when closed may be used for music or dancing* (t).

6. The council and the commissioners (s) respectively may make byelaws for the regulation, management, and use of the open or swimming baths when used for any of the purposes mentioned in the fifth section of this Act; and all the provisions in the principal Act relating to byelaws shall extend and apply to byelaws made under this section (u).

Power to make byelaws.

7. The council and the commissioners (s) respectively may appoint and remove at pleasure such officers and servants as shall be necessary for the management and superintendence of any gymnasium or other means of recreation established under this Act, and may appoint reasonable salaries, wages, and allowances for such officers and servants.

Power to appoint officers.

8. The council and the commissioners (s) respectively may from time to time make such reasonable charges for the use of the gymnasium or other means of

Power to make charges for gymnasium, &amp;c.

(r) *One halfpenny*.—This is increased to one penny by the Baths and Washhouses Act, 1878, sec. 14, *post*.

(s) *Commissioners*.—As to the transfer of the powers of the commissioners to the sanitary authority, see note to sec. 33 of the Baths and Washhouses Act, 1846, *ante*.

(t) *Provided always* . . .—This proviso is repealed so far as the administrative county of London is concerned, and other provisions are substituted by the Baths and Washhouses Act, 1896, *post*.

(u) *Byelaws*.—See the Baths and Washhouses Act, 1846, sec. 34, and schedule (A.) and note thereto, *ante*.



41 Vict. c. 14. recreation established under this Act, or for the use of any covered swimming bath as an empty room, as they shall think fit.

Powers of borrowing, &c. extended to this Act. 9. The provisions in the twenty-first, twenty-second, and twenty-third sections of the principal Act authorising the borrowing and advancement of money for the purposes of that Act shall be taken to authorise the borrowing and advancement of money in like manner for the purposes of this Act; and the approval of the Local Government Board shall be substituted for that of the Treasury in all cases where money is borrowed for the purposes of the principal Act or this Act.

Power to remove offenders. Baths, &c. to be considered public and open places. 10. The council and the commissioners (x) respectively, and their respective servants and agents, may remove any person offending against any of the byelaws made under this Act and the recited Acts, or any of them; and any bath or washhouse, or open bathing place, or covered swimming bath, established under this Act and the recited Acts, or any of them, shall be taken to be a public and open place, so as to make offences against decency therein criminal offences.

Power to refuse admittance to baths, &c. to offenders. 11. The council and the commissioners (x) respectively, and their respective officers and servants, may refuse admittance to any bath, washhouse, open bathing place, or covered swimming bath, or any of them, to any person (1) who shall have been convicted of wilfully disobeying any of the byelaws in such bath, washhouse, open bathing place, or covered swimming bath; (2) who shall have been convicted of any offence against public decency in any of such baths, washhouses, open bathing places, or covered swimming baths as aforesaid.

Superannuation allowances to officers, &c. 29 Vict. c. 31. 12. The provisions of the Superannuation (Metropolis) Act, 1866 (y) shall extend to and include officers and servants employed in and about any baths, washhouses, open bathing places, or covered swimming baths established under this Act and the recited Acts, or any of them, by the council or the commissioners (x) within the area of the Metropolis Local Management Act.

Expenses of Act and income arising to be applied as under principal Act. 13. The expense of carrying this Act into execution shall be defrayed, and the income arising from the use in any manner of any covered swimming bath established under the provisions of this Act and the recited Acts, or any of them, shall be applied in the same manner as that in which the expenses of the principal Act are thereby directed to be defrayed, and the income arising from baths, and washhouses, and open bathing places, is thereby directed to be applied.

Increase of charge. 10 & 11 Vict. c. 61. 14. The charge of one halfpenny, fixed by the Baths and Washhouses Act, 1847, section seven, and part five of the schedule to that Act, shall be increased to one penny.

The SCHEDULE above referred to.

#### CHARGES FOR COVERED SWIMMING BATHS.

1ST CLASS.—Any sum not exceeding eightpence for each person.

2ND CLASS.—Any sum not exceeding fourpence for each person.

3RD CLASS.—Any sum not exceeding twopence for each person.

#### BATHS AND WASHHOUSES ACT, 1896.

59 & 60 Vict. c. 59. An Act to amend the Baths and Washhouses Acts. [14th August, 1896]

[Preamble recites Baths and Washhouses Acts, 1846 to 1882.]

Short title.

1. This Act may be cited for all purposes as the Baths and Washhouses Act, 1896, and this Act and the Baths and Washhouses Acts, 1846 to 1882, may be cited together for all purposes as the Baths and Washhouses Acts, 1846 to 1896.

Amendment of 41 & 42 Vict. c. 14. s. 5.

2. From and after the passing of this Act the following proviso to section five of the Baths and Washhouses Act, 1878, viz.: "Provided always, that no covered

(x) **Commissioners.**—As to the transfer of the powers, &c., of the commissioners to the sanitary authority, see note to sec. 33 of the Baths and Washhouses Act, 1846, *ante*.

(y) **Superannuation (Metropolis) Act, 1866.**—*Post*, tit. "*Superannuation*."

or open swimming bath when closed may be used for music or dancing," shall be repealed, so far as the administrative county of London is concerned. 59 & 60 Vict. c. 59.

Provided always—

- (a) That the commissioners appointed under the Baths and Washhouses Acts, 1846 to 1896, or any sanitary authority or other representative body to whom the powers of the said commissioners shall have been transferred by any order of the Local Government Board made under the provisions of the Local Government Act, 1894 (z), which commissioners, sanitary authority, or representative body, are hereinafter referred to as "such commissioners," shall before any such bath is used for music or dancing obtain a licence from the London County Council in the manner hereinafter prescribed; 56 & 57 Vict. c. 73, ss. 7 and 33 (1) (6).
- (b) That no portion of the premises in respect of which the licence is granted be let otherwise than occasionally to any person or persons corporate or otherwise, and that no money for admission be taken at the doors;
- (c) That such commissioners be responsible for any breach of the conditions on which the licence is granted which may occur during any entertainment given on such premises by their permission.

3. At any annual licensing meeting, or at any other meeting duly convened with fourteen days' previous notice, the London County Council may grant a licence for music or dancing, or for both purposes, to such commissioners, subject to the provisions of the Disorderly Houses Act, 1751, as amended by the Local Government Act, 1888 (a). Licence by London County Council. 25 Geo. 2, c. 36. 51 & 52 Vict. c. 41.

(z) **Transfer to sanitary authority.**—See the Local Government Act, 1894, secs. 7 and 33 (1) and (6), *ante*, vol. i.

(a) **Music or dancing licence.**—See the Disorderly Houses Act, 1751, *post*, tit. "Theatres." &c.

## BILLS IN PARLIAMENT.

## BOROUGH FUNDS ACT, 1872 (a).

35 & 36 Vict. c. 91. An Act to authorise the application of Funds of Municipal Corporations and other governing bodies in certain cases.

[10th August, 1872]

[Preamble.]

Interpretation of terms.

1. The term "governing body" (*b*) in this Act shall mean the council of any municipal borough, the board of health, local board, commissioners, trustees, or other body acting under any general or local Act of Parliament for the management, improvement, cleansing, paving, lighting, and otherwise governing places or districts, and the term "district" shall mean the borough, place, township, or district within which the governing body may for the time being have jurisdiction: . . .

Costs of promoting or opposing parliamentary and other proceedings for benefit of inhabitants to be charged on borough and local funds, except in certain cases.

2. When in the judgment of a governing body (*b*) in any district it is expedient for such governing body to *promote* or (*c*) oppose (*d*) any local and personal Bill or Bills in Parliament, or to prosecute or defend any legal proceedings necessary for the promotion or protection of the interests of the inhabitants of the district, it shall be lawful for such governing body to apply the borough fund, borough rate, or other the public funds or rates under the control of such governing body to the payment of the costs and expenses attending the same; and when there are several funds or rates under the control of the governing body, such governing body shall determine out of which fund or funds, rate or rates, such expense shall be payable, and in what proportions: *Provided that nothing in this Act contained shall authorise any governing body to promote any Bill in Parliament for the establishment of any gas or water works to compete with any existing gas or water company established under any Act of Parliament*: *Provided that no powers contained in this clause shall apply in any case where the promotion of* (*c*) *or opposition to a Bill by a governing body has been decided by a committee of either House of Parliament to be unreasonable or vexatious.*

No payment to member of governing body to be so charged.

3. No payment to any member of a governing body for acting as counsel or agent in *promoting* or (*c*) opposing any such Bill shall be charged as aforesaid.

Costs of promoting or opposing Bills to require sanction of special meetings.

4. No expense in relation to *promoting* or (*c*) opposing any Bill or Bills in Parliament shall be charged as aforesaid unless incurred in pursuance of a resolution of an absolute majority of the whole number of the governing body at a meeting of the governing body, after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in some local newspaper published or circulating in the district, such notice to be in addition to the ordinary notices required for summoning such meeting, nor unless such resolution shall have been published twice in some newspaper or newspapers circulating in the district, and shall have received, in respect of matters within the jurisdiction of the Local Government Board, the approval of such Board, and in respect of other matters, the approval of one of Her Majesty's Secretaries of State, *and in case of the promotion* (*c*) *of a Bill in Parliament no further expense shall be incurred or charged as aforesaid after the deposit of the Bill, unless the propriety of such promotion shall be confirmed by such absolute majority at a further special meeting to be held in pursuance of a similar notice not less than*

(*a*) **Short title. Application of Act.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14). The powers of opposing Bills in Parliament contained in this Act are conferred on county councils by the Local Government Act, 1888, sec. 15, *ante*, vol. i.

(*b*) "**Governing body.**"—This expression is extended to include county councils, by the Local Government Act, 1888, sec. 15, *ante*, vol. i.

(*c*) **Promote Bills.**—A county council is not empowered to promote any Bill in Parliament under this Act. Local Government Act, 1888, sec. 15, *ante*, vol. i. But the London County Council is empowered under other Acts to make applications to Parliament for certain purposes. *Ib.*, note.

(*d*) **Oppose Bills.**—See section 24 of the Railway and Canal Traffic Act, 1888, and note thereto, *post*, as to the power of the county council to oppose any Bill to confirm any provisional order made under that section.



fourteen days after the deposit of the Bill in Parliament; Provided further, that no expense in promoting or (c) opposing any Bill in Parliament shall be charged as aforesaid unless such promotion or opposition shall have had the consent of the owners and ratepayers of that district (f), to be expressed by resolution in the manner provided in the Local Government Act (1858) for the adoption of that Act.

35 & 36 Vict.  
c. 91.

5. The approval of the Local Government Board or one of Her Majesty's principal Secretaries of State, as the case may be, shall not be given to any such resolution as aforesaid until the expiration of seven days after the second publication thereof, as provided by this Act, and in the meantime any ratepayer within the district of the governing body may give notice in writing to the Local Government Board or Secretary of State objecting to such approval.

Proviso as to approval of Local Government Board, &c. to any such resolution.

6. All costs, charges, and expenses incurred under the provisions of this Act shall, before the same become chargeable, be examined and allowed by some person to be authorised by one of Her Majesty's principal Secretaries of State or by the Local Government Board, as the case may be.

Costs to be examined.

7. The Local Government Board, or one of Her Majesty's principal Secretaries of State, shall have power to direct a local inquiry to be held upon any application under this Act, by any person or persons whom they may respectively nominate for the purpose, and to charge the costs and expenses of such local inquiry upon the governing body or the person by whom such application shall be made.

Power to direct local inquiry.

8. Nothing in this Act shall extend or be construed to alter or affect any special provision which is or shall be contained in any other Act for the payment of the costs, charges, and expenses intended to be provided for by this Act, or to take away or diminish any rights or powers now possessed or enjoyed (g) by any governing body, or which are or shall be vested in or exercisable by the inhabitants of any district under any general or special Act.

Saving clause.

9. [Repealed by 46 & 47 Vict. c. 39. *Statute Law Revision.*]

10. The provisions of this Act shall not extend to applications for any Bill in Parliament for any object which would, for the time being, be obtainable by provisional order (h).

Act not to extend to Bills if object attainable by provisional order.

11. This Act shall not extend or apply to Ireland or the City of London or the metropolitan area as defined by the Metropolis Local Management Act, 1855 (i).

Act not to apply to Ireland or the Metropolis.

(f) **Consent of owners and ratepayers.**—No consent of owners and ratepayers is required by the county council for opposing any Bill in Parliament. Local Government Act, 1888, sec. 15 (a), *ante*, vol. i.

(g) **Rights or powers now possessed.**—It has been held that the Act does not deprive a "governing body" of any power to defray out of its funds or rates the expenses of opposing any attack made on it by Bill in Parliament, whether against its existence as a corporation, or only against its rights, powers, and privileges. *Attorney-General v. Brecon (Mayor, &c., of)*, 10 Ch. D. 204; 48 L. J. Ch. 153.

(h) **Section 10.**—This section does not apply to county councils. See note (c), *supra*.

(i) **Metropolitan area.**—The Act is now applied to the London County Council, in so far as it relates to opposing Bills in Parliament, by the Local Government Act, 1888, sec. 15, *ante*, vol. i. The metropolitan area is defined by the Metropolis Management Act, 1855, sec. 250, *ante*, vol. i. A metropolitan vestry was restrained from applying its rates in the promotion of a Bill in Parliament. *Attorney-General v. Lambeth Vestry*, *ante*, vol. i. p. 193.

**BURIAL** (*a*).**48 Geo. 3, c. 75** ("Burial of Drowned Persons Act, 1808").**49 & 50 Vict. c. 20** ("Burial of Drowned Persons Act, 1886"), *note* (*c*).**BURIAL OF DROWNED PERSONS ACT, 1808** (*b*).

**48 Geo. 3, c. 75.** An Act for providing suitable Interment in Church yards or Parochial Burying Grounds in England, for such dead Human Bodies as may be cast on shore from the Sea, in cases of Wreck or otherwise. [18th June, 1808]

In cases where dead human bodies shall be cast on shore, churchwardens, &c. of the parish where the body shall be found to cause the same to be removed and interred in a decent manner in the churchyard of such parish.

1. The churchwarden and churchwardens, overseer and overseers of the poor for the time being of the respective parishes throughout England, in which any dead human body or dead human bodies shall be found thrown in or cast on shore from the sea (*c*) by wreck or otherwise, shall and he and they is and are hereby required, upon notice to him or them given that any such body or bodies are thrown in or cast on shore by the sea, and is or are lying within the bounds of the parish for which he or they shall be churchwarden or churchwardens, overseer or overseers of the poor, to cause the same to be forthwith removed to some convenient place, and with all convenient speed to cause such body or bodies to be decently interred in the churchyard or burial ground of such parish, so that the expenses attending on such burial do not exceed the sum which at that time is allowed in such parish for the burial of any person or persons buried at the expense of such parish: Provided always, that in case any such body or bodies shall be thrown in or cast on shore from the sea in any extra-parochial place where there is no churchwarden or churchwardens, overseer or overseers of the poor, then and in every such case the constable or headborough of such place shall, on notice being given to him that such body or bodies is or are lying in such extra-parochial place, forthwith cause such body or bodies to be removed to some convenient place, and with all convenient speed cause the same to be buried in such and the like manner as the churchwardens and overseers within England are hereby required to bury such body or bodies.

Minister of the parish to perform the funeral service, &c.

2. Every minister, parish clerk, and sexton of such respective parishes shall perform their several and respective duties in such and the like manner as is

(*a*) **Burial.**—Under the Burial Acts, 1852 to 1885 (15 & 16 Vict. c. 85; 16 & 17 Vict. c. 134; 17 & 18 Vict. c. 87; 18 & 19 Vict. c. 128; 20 & 21 Vict. c. 35; 20 & 21 Vict. c. 81; 22 Vict. c. 1; 23 & 24 Vict. c. 64; 25 & 26 Vict. c. 100; 34 & 35 Vict. c. 33; 43 & 44 Vict. c. 41; 44 & 45 Vict. c. 2; 48 & 49 Vict. c. 21), on the representation of a Secretary of State, Her Majesty in Council may order the discontinuance of burials in any part of the Metropolis, with certain exceptions. No new burial ground or cemetery is to be provided or used in the Metropolis, or within two miles thereof, without the previous approval of a Secretary of State. Upon the requisition of ten or more ratepayers, a meeting of the vestry of any parish is required to be called to determine whether a burial ground shall be provided for such parish. In case the vestry resolve to provide a burial ground, they are, under those Acts, required to appoint not less than three nor more than nine persons to be the burial board of such parish; but the Local Government Board may, on the application of any London sanitary authority, confer on such sanitary authority the powers, duties, and liabilities of a burial board. See Local Government Act, 1894, secs. 33 and 7, *ante*, vol. i. See "The Law of Burial," by James Brooke Little, as to the powers, duties, and liabilities of a burial board. The subject is too large to be treated satisfactorily within the compass of the present work.

(*b*) **Short title.**—The above short title is authorised by the Short Titles Act, 1896, (59 & 60 Vict. c. 14).

(*c*) **Cast on shore from the sea. Notice to constable.**—The Burial of Drowned Persons Act, 1886 (49 & 50 Vict. c. 20), enacts that:—"The provisions of the principal Act shall be deemed to extend and apply not only to dead human bodies found in or cast on shore from the sea by wreck or otherwise, but also to any dead human body or dead human bodies found in or cast on shore from any tidal or navigable waters, and to all such body or bodies found floating or sunken in any such waters and brought on to the shore or bank thereof: Provided, that notice of the finding of any such body or bodies shall be deemed to be duly given in pursuance of the principal Act if given to a police constable within the time specified in that Act, and such constable shall forthwith communicate the same to the parish officers mentioned in the said Act."

customary in other funerals, and shall admit of such body or bodies being interred in such churchyards or burial grounds without any improper loss of time, receiving for the same, by way of compensation, such and the like sums as in cases of burials made at the expense of such parishes. 48 Geo. 3, c. 75.

3. In case any person or persons shall find any such body or bodies cast on shore from the sea (*d*) by wreck or otherwise, and shall within six hours thereafter give notice thereof to some one of the churchwardens or overseers of the poor of the parish for the time being in which such body or bodies shall be found, or to the constable (*d*) or headborough for the time being, in case such body or bodies shall be found in any extra-parochial place, or cause such notice to be left at his or their last or usual place or places of abode, then and in every such case such person or persons shall receive the sum of five shillings for his, her, or their trouble, such sum to be forthwith paid to the person or persons first giving such notice only; but nevertheless that no greater sum than five shillings shall be paid for any one notice, although there may be a greater number of such bodies than one. Rewarding persons finding dead human bodies, and giving notice thereof to parish officers.

4. Provided always, that in case any person or persons shall find any such body or bodies cast on shore from the sea (*d*) by wreck or otherwise, and shall not within six hours thereafter give notice to some one of the churchwardens or overseers of the poor of the parish for the time being in which such body or bodies shall be found, or to the constable or headborough for the time being, in case such body or bodies shall be found in any extra-parochial place, or cause such notice to be left at his or their last or usual place or places of abode, then and in every case such person or persons shall for every such offence forfeit and pay the sum of five pounds. Persons finding dead human bodies cast on shore, and not giving notice, subject to a penalty.

5. All necessary and proper payments, costs, charges, and expenses which shall be made or incurred in or about the execution of this Act, shall be made and paid by the churchwarden or churchwardens, overseer or overseers, constable or headborough for the time being of such respective parishes and places as aforesaid. Expenses to be paid by churchwardens, &c.

6. And, for the purpose of reimbursing him or them all such payments, costs, charges, and expenses, it shall and may be lawful to and for any one justice of the peace for the county or place within that part of the United Kingdom called England, in which any such body or bodies shall have been so removed and buried as aforesaid, by any writing under his hand, to order and direct the treasurer for such county (*f*) to pay such sum or sums of money to such churchwarden and churchwardens, overseer and overseers, constable or headborough, for his or their costs and expenses in or about the execution of this Act (after the same shall have been duly verified on oath) as to the said justice shall seem reasonable and necessary (*e*); and such treasurer shall and he is hereby authorised and required forthwith to pay the sum or sums of money so ordered and directed to be paid to the person or persons empowered to receive the same; and such treasurer shall be allowed the same in his accounts. Who are to be reimbursed by the treasurer of the county.

7. In case any such churchwarden or churchwardens, overseer or overseers, constable or headborough, shall refuse or neglect to remove or cause to be removed such body or bodies from the sea shore to some convenient place prior to the interment thereof, for the space of twelve hours after such notice given to him or them, or left in writing at his or their last or usual place or places of abode by any person or persons whomsoever, or shall neglect or refuse to perform the several other duties required of him and them by this Act, then and in every such case every such churchwarden or overseer, constable or headborough, shall for every such offence forfeit and pay the sum of five pounds. Penalty on parish officers neglecting to remove and inter dead human bodies so found or cast on shore.

8. All penalties and forfeitures which shall be incurred under this Act (*g*), . . . when recovered, shall be paid to the informer or informers. . . . Application of penalties under this Act.

(*d*) Cast on shore from the sea.—Notice to constable.—See note (*e*) on page 734.

(*e*) Reasonable and necessary.—It is not sufficient for the justice's order to state that the costs and expenses have been incurred, but it must also show that they were reasonable and necessary. *Reg. v. Kent (Treasurer)*, 22 Q. B. D. 603; 58 L.J.M.C. 71.

(*f*) County treasurer.—See the Local Government Act, 1888, sec. 67, *ante*, vol. 1.

(*g*) Section 8.—The words omitted from this section are repealed by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43).



48 Geo. 3, c. 75.

Appeal to the  
quarter ses-  
sions.

Penalties to be  
paid by per-  
sons incurring  
the same, and  
not by the  
parish.  
Lords of  
manors, &c. to  
pay the same  
fee as hereto-  
fore on inter-  
ring dead  
human bodies,  
&c.

9. [*Repealed by Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 4.*]

10. If any person or persons shall think himself, herself, or themselves aggrieved by any judgment or determination, or by any matter or thing done in pursuance of this Act, such person or persons may appeal to the justices of the peace at the . . . general or quarter sessions of the peace (*h*); . . . and the said justices may if they see cause mitigate any fine, penalty, or forfeiture, and may also order such further satisfaction to be made to the party injured as they shall judge reasonable; and all such determinations of the said justices shall be final, binding, and conclusive upon all parties, to all intents and purposes whatsoever.

11. [*Repealed by the Summary Jurisdiction Act, 1884.*]

12. All penalties and expenses attendant thereon, which shall be incurred under the provisions of this Act, shall be paid and borne by the person or persons incurring the same, and the parish or place wherein such person or persons ought to have acted in the duties prescribed by this Act shall be wholly exempted therefrom.

13. Whereas in cases of dead wrecks, wherein no living person is found, or owner known, the lords of manors on which any such dead body or dead bodies may be washed in, and who are entitled to wreck there, have usually paid a small fee for the placing such body or bodies in the ground in the state in which the same have been found, and such payments have been adduced and admitted as proof on trials at common law of the right of such lords of manors to wrecks in such manors; be it therefore enacted, that in all and every such cases it shall and may be lawful to and for all and every lord or lords of any manor or manors throughout England to pay or cause to be paid to the churchwarden or churchwardens, overseer or overseers, constable or headborough of such respective parishes and places as aforesaid, such and the like sums as he or they was or were heretofore accustomed to pay for the placing any such body or bodies into the ground as aforesaid; such sums to go in part payment and discharge of the costs and expenses to be incurred in or about the execution of this Act, and credit to be given for the same by such overseers, churchwardens, constable, or headborough, in their accounts with the county to which such accounts shall be submitted; anything in this Act to the contrary thereof in anywise notwithstanding.

14. [*Repealed by 35 & 36 Vict. c. 97. Statute Law Revision.*]

(*h*) **Appeal to quarter sessions.**—The words omitted from sec. 10 are repealed by the Summary Jurisdiction Act, 1884. For the time and manner of appealing to quarter sessions, see note to sec. 227 of the Metropolis Management Act, 1855, *ante*, vol. i.

## CANAL BOATS.

|                                                     |          |
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## CANAL BOATS ACT, 1877.

40 & 41 Vict. c. 60. An Act to provide for the Registration and Regulation of Canal Boats used as Dwellings. [14th August, 1877]

1. A canal boat shall not be used as a dwelling unless it has been registered in accordance with this Act.

The owner of a canal boat may register that boat with the registration authority hereinafter mentioned as a dwelling for such number of persons of the specified age and sex as may be allowed under the provisions of this Act; and the boat shall be used as a dwelling only for the number of persons of the age and sex for which it is registered.

If a canal boat is used as a dwelling in contravention of this Act, the master of the boat, and also the owner of the boat, if he is in fault, shall each be liable to a fine not exceeding twenty shillings for each occasion on which the boat is so used.

2. The Local Government Board shall make regulations, and may from time to time revoke and vary such regulations—(a)

- (1) For the registration of canal boats under this Act, including certificates of registration, and the fees in connexion with such registration; and
- (2) For the lettering, marking, and numbering of such boats; and
- (3) For fixing the number, age, and sex of the persons who may be allowed to dwell in a canal boat, having regard to the cubic space, ventilation, provision for the separation of the sexes, general healthiness, and convenience of accommodation of the boat; and
- (4) For promoting cleanliness in and providing for the habitable condition of canal boats; and
- (5) For preventing the spread of infectious disease by canal boats.

The registration authority shall register every canal boat which conforms to the conditions of registration provided by the said regulations for the number of persons allowed by those regulations to dwell therein.

3. Upon the registry of a boat under this Act, the registration authority shall give to the owner thereof two certificates of registry, identifying the owner and the boat, and stating the place to which the boat is registered as belonging, and the number, age, and sex of the persons allowed to dwell in the boat, and such other particulars as may be provided by regulations under this Act, or may seem fit to the registration authority, and the master shall have the care of one of such certificates (b).

Every canal boat when registered shall be lettered, marked, and numbered in some conspicuous manner (c) (as directed by the regulations made under this Act), and such lettering, marking, and numbering shall include the word "registered," and the name of the place to which the boat is registered as belonging, and the registered number.

Any boat not lettered, marked, and numbered in conformity with this section, or having the letter, mark, or number altered, defaced, or obliterated, shall be deemed, for the purposes of this Act, to be an unregistered canal boat.

(a) **Regulations.**—The regulations of the Local Government Board under this section are dated March 20th, 1878; and copies may be obtained for 4d. each at the offices of the sanitary authorities cited in note to sec. 7, *post*. As to penalties incurred by the master and owner if default is made in complying with any of the regulations, see Canal Boats Act, 1884, sec. 2, *post*.

(b) **Certificate of registry.**—The certificate ceases to be in force in the event of structural alterations in the boat. Canal Boats Act, 1884, sec. 1, *post*.

(c) **Lettered, marked, and numbered.**—The boat must be lettered, marked, and numbered on both sides, or on the stern, so that the lettering, marking, and numbering may be plainly visible from both sides of the canal. Canal Boats Act, 1884, sec. 7, *post*.

Registration of use of canal boat as dwelling.

Local Government Board to make regulations for registration, fixing number of persons, promoting cleanliness, and preventing infectious disease.

Certificate of registry and lettering and numbering of boat.

40 & 41 Vict.  
c. 60.

Power of sanitary authority for prevention of infectious disease in canal boats.

38 & 39 Vict.  
c. 55.

Authorised person may enter boat, &c.

Education of children dwelling on board canal boats.

33 & 34 Vict.  
c. 75.

36 & 37 Vict.  
c. 86.

39 & 40 Vict.  
c. 79.

Registration authority.

4. Where any sanitary authority within whose district a canal or any part of a canal is situate is informed by the master of a canal boat or otherwise that a person on a canal boat is suffering from an infectious disorder, the authority shall cause such steps to be taken as may by the certificate of their medical officer of health, or of any other legally qualified practitioner, appear requisite for preventing the said disorder from spreading, and for that purpose may exercise the power of removing a person suffering as aforesaid, and all other powers in relation to provisions against infection conferred by the Public Health Act, 1875 (*d*), and may also, if need be, detain the boat; but such boat shall not be detained a longer time than is necessary for cleansing and disinfecting the same.

5. Where any person duly authorised by a registration or sanitary authority, or by a justice of the peace, has reasonable cause to suppose, either that there is any contravention of this Act on board a canal boat, or that there is on board a canal boat any person suffering from an infectious disorder, he may, on producing (if demanded) either a copy of his authorisation, purporting to be certified by the clerk or a member of the sanitary authority, or some other sufficient evidence of his being authorised as aforesaid, enter by day (*e*) such canal boat and examine the same and every part thereof, in order to ascertain whether on board such boat there is any contravention of this Act, or a person suffering from an infectious disorder, and may, if need be, detain the boat for the purpose, but for no longer time than is necessary.

The master of the boat shall, if required by such person, produce to him the certificate of registry (if any) of the boat, and permit him to examine and copy the same, and shall furnish him with such assistance and means as such person may require for the purpose of his entry and examination of and departure from the boat in pursuance of this section.

A refusal to comply with the requisition of such person under this section shall be deemed to be an obstruction of such person.

If such person is obstructed in the performance of his duty under this Act in the case of any boat, the person so obstructing shall be liable to a fine not exceeding forty shillings.

6. A child in a canal boat registered in pursuance of this Act, and his parent, shall for the purposes of the Elementary Education Acts, 1870, 1873, and 1876, be deemed, subject as hereinafter mentioned, to be resident in the place to which the boat is registered as belonging, and shall be subject accordingly to any byelaw in force under the said Acts in that place.

Provided that if the parent satisfies the school board or school attendance committee having authority in that place, that the child is actually attending school, or is under efficient instruction in accordance with the said Acts, in some other school district, the said board or committee shall grant him without charge a certificate to that effect, and thereupon he and his child shall be deemed for the purposes aforesaid to be resident in the school district in which the child is so attending school, or under efficient instruction, and shall be subject to any byelaw in force therein.

The said certificate may on application by the parent be rescinded or varied by the school board or school attendance committee for the place to which the boat is registered as belonging, and may be rescinded without application by any such board or committee, if they are satisfied, after due notice to the parent, that his child is not properly attending school or under efficient instruction in the school district mentioned in the certificate.

7. For the purpose of the registration of canal boats the registration authority shall be such one or more of the sanitary authorities having districts abutting on a canal as may from time to time be prescribed by regulation of the Local Government Board (*f*).

(*d*) **Public Health Act, 1875.**—Secs. 120 to 125 contain provisions against infection, and for the removal of persons suffering from infectious disorders. Similar provisions are contained in the Public Health (London) Act, 1891, secs. 59—61, and sec. 66.

(*e*) **By day**, i.e., between six a.m. and nine p.m. Canal Boats Act, 1884, sec. 9, *post*.

(*f*) **Registration authorities.**—The following are the registration authorities in the Metropolis, and the canals in respect of which they act, as prescribed by order of the



A canal boat shall be registered with some registration authority having a district abutting on the canal on which such boat is accustomed or intended to ply.

With a view of determining the place to which a canal boat belongs, for the purpose of the Elementary Education Acts, 1870, 1873, and 1876, the registration authority shall register any canal boat in respect of which an application is made for registration as belonging to some place which is either a school district or is part of a school district, and is situate wholly or partly within the jurisdiction of the registration authority with which it is registered.

8. The expenses incurred in the execution of this Act by a local authority (g) shall be defrayed as follows:

(1) When they are incurred by an urban sanitary authority, a rural sanitary authority, or a port sanitary authority, they shall be defrayed out of the fund or rate out of which the expenses of such authority, as a sanitary authority under the Public Health Act, 1875, are defrayed; Provided that when they are incurred by a rural sanitary authority they shall be deemed to be general expenses; and

(2) When they are incurred by a vestry or district board in the Metropolis they shall be defrayed as expenses incurred by such vestry or board in the execution of the Metropolis Management Act, 1855, and the Acts amending the same (h).

9. An order of the Local Government Board making, revoking, or varying any regulation in pursuance of this Act shall not come into force until it has lain in a complete form as settled and approved by the Board for forty days before both Houses of Parliament during the session of Parliament.

The Local Government Board shall take steps for enabling all persons interested in any regulations made by that Board in pursuance of this Act to obtain copies thereof at such places in the neighbourhood of canals as the Local Government Board may prescribe, on payment of such sum not exceeding sixpence as may be prescribed by that Board (i).

10. If the master of any canal boat illegally detains the certificate of registry of such boat, he may, on summary conviction before two justices, be directed by order of such justices to deliver up such certificate, and shall, in addition thereto, be liable to a fine not exceeding forty shillings, and the justices may direct any part of such fine to be paid to the person injured by the detention of such certificate.

11. All fees paid in respect of registration under this Act shall be carried to the fund or rate out of which the expenses incurred in the execution of this Act by the authority making such registration are by this Act declared to be payable.

12. [Power of canal company, &c., to establish schools.]

13. Offences under this Act may be prosecuted, and fines under this Act may be recovered on summary conviction before two justices having jurisdiction, either in the place to which the boat in respect of which the offence was committed is registered as belonging, or in the place where the offence is committed, or in the place where the alleged offender for the time being is, in manner provided by the Summary Jurisdiction Act, 1848, and the Acts amending the same (k).

Local Government Board dated May 17th, 1878:—Paddington Vestry, Grand Junction Canal and Regent's Canal; Limehouse District Board, Regent's Canal; Rotherhithe Vestry, Grand Surrey Canal.

(g) **Execution of the Act.**—It is the duty of every registration or sanitary authority within whose district any canal or part of a canal is situate, to enforce within such district the provisions of the Canal Boats Acts, and the regulations made thereunder, Canal Boats Act, 1884, sec. 3, *post*.

(h) **Metropolis Management Act, 1855.**—*Ante*, vol. i.

(i) **Sale of regulations.**—By order of the Local Government Board, dated September 14th, 1878, the offices of the registration authorities, recited in note to sec. 7, *supra*, were prescribed as the places in the Metropolis at which copies of the regulations may be obtained on payment of fourpence for each copy.

(k) **Recovery of penalties.**—See note to sec. 227 of the Metropolis Management Act, 1855, *ante*, vol. i. Fines recovered under the present Act are to be paid to the prosecuting registration or sanitary authority. Canal Boats Act, 1884, sec. 8, *post*.

40 & 41 Vict.  
c. 60.

33 & 34 Vict.  
c. 75.

36 & 37 Vict.  
c. 86.

39 & 40 Vict.  
c. 79.

Expenses of  
sanitary  
authority.

38 & 39 Vict.  
c. 55.

18 & 19 Vict.  
c. 20.

Regulations to  
be laid before  
Parliament.

Illegal deten-  
tion of certi-  
ficate of  
registry.

Application of  
fees under this  
Act.

Recovery of  
penalties.

11 & 12 Vict.  
c. 43.

40 & 41 Vict.  
c. 60.

Definitions.

18 & 19 Vict.  
c. 120.

38 & 39 Vict.  
c. 55.

17 & 18 Vict.  
c. 104.

Extent of Act.  
Short title.

14. In this Act, unless the context otherwise requires—

The expression “sanitary authority” means an urban sanitary authority, a rural sanitary authority, or a port sanitary authority; Provided that in the case of the parishes mentioned in schedule A. and the districts mentioned in schedule B. to the Metropolis Management Act, 1855, so far as they are not within the jurisdiction of a port sanitary authority, the vestry of any such parish and the district board of any such district elected under the Metropolis Management Act, 1855 (*l*), and the Acts amending the same, shall be deemed to be sanitary authorities, and where other sanitary authorities are by this Act empowered to exercise powers conferred by the Public Health Act, 1875, may exercise similar powers conferred by any Act of Parliament extending to such parishes or districts:

The expression “parent” includes guardian, and every person who is liable to maintain or has the actual custody of any child:

The expressions “urban sanitary authority” and “rural sanitary authority” and “port sanitary authority” have the same meaning as in the Public Health Act, 1875:

The expression “canal” includes any river, inland navigation, lake, or water being within the body of a county, whether it is or not within the ebb and flow of the tide:

The expression “canal boat” (*m*) means any vessel, however propelled, which is used for the conveyance of goods along a canal as above defined, and which is not a ship duly registered under the Merchant Shipping Act, 1854 (*n*), and the Acts amending the same:

The expression “owner” includes a person who, though only the hirer of a canal boat, appoints the master and other persons working such boat:

The expression “master” in relation to a canal boat means the person having for the time being command or charge of the boat.

15. [*Repealed by 57 & 58 Vict. c. 56. Statute Law Revision.*]

16. This Act shall not extend to Scotland or Ireland.

17. This Act may be cited as the Canal Boats Act, 1877.

## CANAL BOATS ACT, 1884.

47 & 48 Vict. c. 75. An Act to amend the Canal Boats Act, 1877.

[14th August, 1884]

[*Preamble recites the Canal Boats Act, 1877.*]

Certificates of registry made void by structural alterations.

Penalty for contravention of regulations under Canal Boats Acts.

Enforcement of Act by registration and sanitary authority, and report to be made.

1. A certificate of registration granted under the principal Act shall cease to be in force in the event of any structural alterations having been made in the canal boat affecting the conditions upon which the certificate of registration has been obtained.

2. If default is made in complying with any of the regulations made or to be made by the Local Government Board and Education Department under the principal Act or this Act, and for the time being in force, the master of the boat with respect to which the default is made, and also the owner of the boat, if in default, shall for each default be liable on summary conviction to a fine not exceeding twenty shillings.

3. It shall be the duty of every registration or sanitary authority within whose district any canal, or any part of a canal is situate, to enforce within such district the provisions of the principal Act and this Act, and any regulations made thereunder by the Local Government Board; and every such authority shall, within twenty-one days after the thirty-first day of December in every year, make a report to the Local Government Board as to the execution of the principal Act and

(*l*) **Metropolis Management Act, 1855.**—*Ante*, vol. i. See also the definition of “sanitary authority” in sec. 99 of the Public Health (London) Act, 1891, *ante*, vol. i.

(*m*) **Canal boat.**—This definition of “canal boat” must be read subject to sec. 10 of the Canal Boats Act, 1884, *post*.

(*n*) **Merchant Shipping Act, 1854.**—Repealed and replaced by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60).

this Act, and of the regulations made thereunder as aforesaid, and as to the steps taken by such authority during the year to give effect to the provisions of the said Acts and regulations.

47 & 48 Vict.  
c. 75.

4. The Local Government Board shall in every year present a report to both Houses of Parliament as to the execution of the principal Act and this Act, and the observance of the regulations made by them thereunder; and shall cause inquiries to be made from time to time by an inspector or inspectors to be appointed by them for that purpose.

Inquiries and reports by Local Government Board.

Such inspectors shall for the purpose of any inquiry under this Act have, in relation to witnesses and their examination, the production of papers, and inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts (o), and may enter any canal boat at any time by day, and examine the same and every part thereof, and may, if need be, for the purpose of such inquiry detain the boat, but for no longer time than is necessary.

The master of the boat shall, if required by any such inspector, produce to him the certificate of registry, if any, of the boat, and permit him to examine and copy the same, and shall furnish him with such assistance and means as such inspector may require for the purpose of his entry and examination of and departure from the boat in pursuance of this section.

A refusal to comply with the requisition of such inspector under this section shall be deemed to be an obstruction of such inspector.

If such inspector is obstructed in the performance of his duty under this Act, the person obstructing him shall be liable to a fine not exceeding forty shillings.

5. The power to make regulations given to the Local Government Board by the principal Act and this Act shall include power to the Education Department to make regulations with respect to the form of certificates or pass books as to attendance at school to be used by children in canal boats.

Power to make regulations as to school certificates, &c.

6. [*Annual report by Education Department.*]

7. A canal boat shall not be deemed to be lettered, marked, and numbered in conformity with section three of the principal Act, unless it is so lettered, marked, and numbered on both sides of the canal boat, or in some suitable position on the stern of the boat, so that the lettering, marking, and numbering may be plainly visible from both sides of the canal whereon the boat may be.

Lettering and numbering of canal boats.

8. Every fine recovered under the principal Act or this Act shall be paid in the case of a prosecution by any registration or sanitary authority or person authorised by any such authority to such authority or person, and if paid to such person shall be paid by him to such authority, and shall be applied towards the expenses of executing the principal Act and this Act, any Act to the contrary notwithstanding.

Application of fines.

9. The expression "by day" in the principal Act and this Act shall be deemed to include the hours between six o'clock in the morning and nine o'clock at night.

Definition of term "by day."

10. If it shall at any time appear to the Local Government Board, on the representation of any registration or sanitary authority or of any inspector appointed under this Act, that the principal Act and this Act ought to apply to any vessel or class of vessels which would be within the definition of canal boat contained in section fourteen of the principal Act, if such vessel or class of vessels were not registered under the Merchant Shipping Act, 1854 (p), and the Acts amending the same, the Local Government Board may declare that the principal Act and this Act shall apply to such vessel or class of vessels, although the same may be registered as aforesaid, and thereupon the same shall be deemed to be a canal boat or canal boats within the meaning of the principal Act and this Act, and the definition contained in section fourteen of the principal Act shall be amended accordingly.

Amendment of definition of canal boat.

11. This Act may be cited as the Canal Boats Act, 1884, and shall be construed as one with the Canal Boats Act, 1877, which Act and this Act may be cited together as the Canal Boats Acts, 1877 and 1884.

Short title and construction of Act.

(o) **Powers of poor law inspectors.**—See the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), sec. 21, as to the power of poor law inspectors to summon witnesses, &c.

(p) **Merchant Shipping Act, 1854.**—Repealed and replaced by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60).



## CHARITIES.

|                                                                            |     |
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| 55 & 56 Vict. c. 15 ("Charity Inquiries (Expenses) Act, 1892") .....       | 745 |

## CHARITABLE DONATIONS REGISTRATION ACT, 1812 (a).

52 Geo. 3, c. 102. An Act for the registering and securing of Charitable Donations. [9th July, 1812]

Memorial of deeds, &c., respecting charitable donations already founded to be registered.

1. A memorial or statement of the real and personal estate, and of the gross annual income, investment, and the general and particular objects of all and every charity and charities, and charitable donations for the benefit of any poor or other persons in any place in England and Wales, which shall have been founded, established, made, benefited, increased or secured, together with the names of the respective founders of or benefactors thereto, where known, and also of the person or persons in whose custody, possession or control, the deeds, wills and other instruments whereby such charities or charitable donations shall have been founded, established, made, benefited, increased or secured, may be, and also of the names of the then trustee or trustees, feoffee or feoffees, possessor or possessors of such real or personal estate shall . . . be registered by such person or persons who shall then be the trustee or trustees, feoffee or feoffees, possessor or possessors thereof, or some or one of such persons, in manner and in the form contained in the schedule to this Act annexed, in the office of the *clerk of the peace* (b) of the county, or city or town, being a county of itself, within which such poor or other persons shall be; and such memorial or statement shall be signed by such person or persons causing the same to be registered and left in the said office of such *clerk of the peace* (b), who shall forthwith transmit a duplicate or copy of the same unto the enrolment office of the High Court of Chancery.

The like of charitable donations hereafter founded.

2. Wherever any such charity or charitable donation shall be founded, established, made or benefited, increased or secured by deed, will or any other instrument hereafter to be made or executed by any person or persons, then a like memorial or statement, according to the directions hereinbefore contained, shall be registered, and left and transmitted as aforesaid, by such person or persons as are hereinbefore mentioned, within twelve months after the decease of such person or persons by whom any such will, deed or deeds, or other instrument shall have been made or executed.

Clerk of county council to provide proper books wherein registries shall be made.

3. For the purpose of such registries of such memorials or statements, the *clerk of the peace* (b) for the time being of each and every county, or city or town, being a county of itself, or riding within England and Wales, shall, as there shall be occasion, provide proper books of parchment or vellum, wherein such registers shall be made and entered; and every such original memorial or statement, and every such book provided as aforesaid, shall be carefully kept and preserved for public use and inspection in the office to which it shall belong, together with a correct index, to be made from time to time by such *clerk of the peace* (b), of such charities and charitable donations, distinguishing each by the name of the original or first donor or founder thereof, where known, or the appellation or title most generally used for such charity or charitable donation.

Notice to be given in *London Gazette* if persons benefited shall not be wholly within one county.

4. In case the person to be benefited by any such charity or charitable donation as aforesaid shall not be wholly within any one county, then, and in such case such *clerk of the peace* (b) of the county where any such charity or charitable donation shall be registered, shall forthwith notify in the *London Gazette* the name or title thereof, according to the appellation or title used in the index aforesaid, and the names of the several places wherein the objects of such charity or charitable donation shall be, and the particular or general objects thereof, and also the name of the county wherein such memorial or statement shall have been registered.

(a) **Short title.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(b) **Clerk of the peace.**—Now the clerk of the county council. Local Government Act, 1888, secs. 3 (xv) and 83 (6) and (11), *ante*, vol. i.

5. If any such charity or charitable donation shall not be duly memorialised, stated and registered according to the provisions of this Act, it shall and may be lawful for any two persons or more, interested in such charity or charitable donation, to present a petition to the Lord Chancellor, Lord Keeper, or Lords Commissioners, for the custody of the Great Seal or Master of the Rolls for the time being, or the *Court of Exchequer* (c), complaining thereof; and they are hereby required to hear such petition in a summary way, and upon affidavits, or such other evidence as shall be produced upon such hearing, to determine the same, and to make such order therein, and with respect to the costs of such application and proceedings, as to him or them shall seem fit, and which order shall be final and conclusive.

52 Geo. 3,  
c. 102.

If donation not registered petition to be presented to Lord Chancellor, &c.

6. Provided always that no proceedings under the provisions hereinbefore mentioned, shall extend or be construed to extend to decide any right or title as to the property that shall be so registered or as to the persons who shall be entitled, or claim to be entitled, to the benefit thereof or any interest therein.

Proceedings not to decide right or title.

7. All and every *clerk of the peace* (d) of the several counties and ridings in England and Wales shall, as often as required, make searches concerning all memorials and statements directed by this Act to be entered in his or their office as aforesaid, and shall also give copies of the same under his hand if required by any person whatsoever, who shall tender or be willing to pay him the sum or sums hereinafter directed to be allowed to him for such copies of such memorials or statements as aforesaid.

Clerk of county council to make searches, and give copies of registers.

8. Every such *clerk of the peace* (d) shall be allowed for the registering every such memorial or statement as is by this Act directed, the sum of four shillings and no more, in case the same do not exceed four hundred words, but if such memorial or statement shall exceed four hundred words, then after the rate and proportion of one shilling an hundred for all the words contained in such entry, and the like fees for the like number of words contained in every copy of any entry given out of the said register, and no more; and for every notification in the London Gazette, the costs of such notification, and the further sum of ten shillings for drawing and inserting the same, and transmitting the duplicate or copy hereinbefore mentioned unto the enrolment office of the High Court of Chancery, and no more.

Allowance to clerk of county council;

and to person inserting notification in *Gazette*.

9. Where any difficulty shall occur in making and preparing such memorial or statement as aforesaid, so as to render it necessary to employ any longer time than is allowed by the provisions of this Act for registering such memorial or statement as hereinbefore is mentioned, it shall and may be lawful for the *court of quarter sessions* (e) for the county, or city or town, being a county of itself, wherein such memorial or statement is intended to be registered, to allow, on application made to them, and on examination of the circumstances, such further time, not exceeding six calendar months, as to such court shall seem necessary to be given for the purpose of duly registering such memorial or statement as hereinbefore is mentioned.

Further time allowed to register memorials where difficulties occur in preparing same.

10. It shall and may be lawful for the *court of quarter sessions* (e) of the county, or city or town, being a county of itself, wherein such statement or memorial shall have been registered, to allow such reasonable costs and charges attending the preparing and registering, notifying and transmitting such memorial or statement, with reference to the income of the charity or charitable donation, to such person or persons causing the same to be registered, as such *court* (e) shall think fit; it shall and may be lawful for such person or persons who shall have caused such memorial or statement to be registered, to deduct out of the income, funds, rents and profits in his or their lands of such charity or charitable donation so by him or them memorialised and stated and registered, the sum and sums so allowed, and no more: Provided always, that the said *court of quarter sessions* (e) shall not allow any sum whatever for and in respect of such costs and charges, unless it shall be stated to them upon the declaration

Costs attending preparation of memorials allowed.

(c) *Court of Exchequer*.—Now the Queen's Bench Division. Judicature Act, 1873 (36 & 37 Vict. c. 66), and O. in C. Dec. 16th, 1880.

(d) *Clerk of the peace*.—See note (b) on page 742.

(e) *Court of quarter sessions*.—Now the county council. Local Government Act, 1888, sec. 3 (xv), *ante*, vol. i.

52 Geo. 3,  
c. 102.

Not to extend  
to donation  
not secured  
upon lands ;  
nor to chari-  
table institu-  
tion.

Act not to  
extend to any  
royal founda-  
tion ; nor to  
certain institu-  
tions.

Nor to chari-  
table institu-  
tions of  
Quakers.

Nor to chari-  
table founda-  
tions, accounts  
of which are  
directed to be  
passed in  
Court of  
Chancery, &c.

Divers charities  
stated in one  
memorial.

General  
saving.

in writing of the person or persons applying for such allowance, and signed by him or them, that such memorial or statement is to the best of his, her or their knowledge and belief true in every respect, and that it doth contain to the best of his, her or their knowledge and belief a true and full account of the real and personal estate, annual gross income, investment, and the particular or general objects of the charity or charitable donation of which such memorial or statement shall have been registered, together with the names of the respective donors or benefactors thereto, where known, and also of the person or persons in whose custody, possession, or control the deeds, wills and other instruments hereinbefore mentioned, shall at such time be, and also the names of the trustee or trustees, feoffee or feoffees, possessor or possessors of such real and personal estate : Provided always, that none of the provisions hereinbefore contained shall be construed to extend to any charity or charitable donation not issuing out of or secured upon any lands, tenements, or hereditaments, or directed by the founder or donor thereof to be secured thereon, or to be permanently invested in Government or any public stocks or funds, nor to any charitable donation whatsoever, which by the direction of the donor thereof, or by the lawful rules of any charitable institution whatsoever, may be wholly or in part expended in and about the charitable purposes for which the same may have been given, at the discretion of the governors, directors, managers, or the trustee or trustees of such charitable institution at any time whatsoever.

11. Nothing in this Act shall be construed to extend to any hospital, school or other charitable institution whatsoever which shall have been founded, improved or regulated by or under the authority of the King's most excellent Majesty, or any of his royal predecessors, or of any special Act of Parliament thereunto particularly relating ; nor to any charitable donation under the superintendence of any such hospital, school or institution, nor to the governors of the corporation of the charity for the relief of poor widows and children of clergymen, nor to any friendly society, the rules whereof shall have been confirmed according to the provisions of the Act or Acts for the encouragement and relief of friendly societies ; nor to either of the Universities of Oxford or Cambridge, nor to any college or hall thereto belonging, nor to any charitable bequest, devise, gift or foundation whatsoever belonging thereto, or under the control, direction, superintendence, or management of the said universities or either of them, or any college or hall therein respectively ; nor to the Radcliffe Infirmary within the University of Oxford, nor to the colleges of Westminster, Eton, or Winchester, or any of them ; nor to any cathedral or collegiate church within England and Wales ; nor to the Charter House ; nor to the corporation of the Trinity House of Deptford, Stroud ; nor to any funds applicable to charitable purposes for the benefit of any persons of the Jewish nation.

12. Nothing in this Act contained shall extend to any charitable foundation or donation which shall have been or shall be given to and for the benefit of any person or persons of the society of people called Quakers, and which shall be under the superintendence and control of persons of that persuasion.

13. Provided always that nothing in this Act contained shall extend to any charity or charitable donation or foundation, the accounts of the income and expenditure whereof shall have been directed to be annually passed in the High Court of Chancery, not to any charity or charitable donation or foundation, the annual gross income whereof shall not exceed forty shillings, and of which the trustee or trustees, feoffee or feoffees, possessor or possessors, some or one of them, shall within six months after the passing of this Act deposit in the hands of the minister of the parish wherein the objects of such charity, charitable donation or foundation shall be, a written memorial or statement in like form as in the schedule hereunto annexed is contained, and which by such minister shall be forthwith deposited in the parish chest.

14. Where any body corporate, guild or fraternity, shall be intrusted with the possession or distribution of divers charities or charitable donations or foundations, or of the rents and profits thereof, that in such cases all such charities, charitable donations and foundations may be registered and stated in one and the same memorial.

15. Saving always to the King's most excellent Majesty, and to all other persons, such power of superintending and regulating charities and charitable



establishments, and the property and funds thereof, as they respectively had before the making of this Act.

52 Geo. 3,  
c. 102.

SCHEDULE to which this Act refers.

A *MEMORIAL* or statement in pursuance of an Act for the registering and securing of charitable donations; whereby it is declared by the undersigned (*state the name or names of the persons who sign the memorial or statement*) that the real or personal estate (*state this as the case may be*) of the (*state the title or appellation of the charity or charitable donation*) consists of (*state this as the case may be*; and, if real estate, whether it be in lands, tenements or hereditaments, and of what tenure, and where the same are situate, or whether of any charge or incumbrance on any lands, tenements or hereditaments, and where situate; and, if personal estate, describe the nature of it, and how secured) and the gross annual income arising therefrom amounts to (*state the sum*) and the objects of which charity or charitable foundation are (*state the general or particular objects of the charity*) and which charity or charitable foundation was, according to the best of my (*or our, as the case may be*) knowledge and belief, founded by (*state by whom*; and, if benefited, increased or secured by any other person, state the same and by whom) and the deeds, wills and other instruments (*state this as the case may be*; and if no deeds, wills or other instruments exist, state the same) are, to the best of my (*or our, as the case may be*) knowledge and belief, in the custody, possession or control (*state this as the case may be*) of (*state the name of the body corporate or natural person*) and the trustees, feoffees or possessors (*state this as the case may be*) of the said real and personal estate (*state this as the case may be*) are, to the best of my (*or our, as the case may be*) knowledge and belief (*state the name of the body corporate or natural person, as the case may be*).

(Signed)

A.B.,  
C.D.,  
E.F.,

Trustee or Trustees, Feoffees, Possessor  
or Possessors of the real or personal  
estate (*as the case may be*) of the  
charity or charitable donation hereby  
memorialised and registered.

## CHARITY INQUIRIES (EXPENSES) ACT, 1892.

55 & 56 Vict. c. 15. An Act to authorise the Councils of Counties and County Boroughs to contribute to the Expenses of Inquiries into certain Charities.

[20th June, 1892]

1.—(1) The council of any county or county borough may, if they think fit, pay or contribute towards the expenses of any inquiry conducted by the Charity Commissioners (*f*) into any charities which are by the trusts governing their administration expressly appropriated in whole or in part for the benefit of their county or county borough, or of any part thereof.

(2) The payment or contribution may be made out of the county fund, or in the case of a county borough out of the borough fund or borough rate.

2. [Short title: *The Charity Inquiries (Expenses) Act, 1892.*]

(*f*) **Inquiry by Charity Commissioners.**—The Charity Commissioners are appointed by the Crown, and are empowered to inquire into all or any charities, their nature, object, administration, &c., under the Charitable Trusts Act, 1853 (16 & 17 Vict. c. 137).

Power for  
council of  
county or  
county borough  
to contribute  
to expenses of  
charity in-  
quiries.

## COMMON LODGING HOUSES.

|                                                                                              |          |
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| 14 & 15 Vict. c. 28 ("Common Lodging Houses Act, 1851") .....                                | page 746 |
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## COMMON LODGING HOUSES ACT, 1851 (a).

14 & 15 Vict. c. 28. An Act for the well-ordering of Common Lodging Houses. [24th July, 1851]

Short title.

1. In citing this Act for any purpose it shall be sufficient to use the expression "The Common Lodging Houses Act, 1851."

Interpretation of terms in this Act.

2. The following words and expressions in this Act have, for the purposes and execution of this Act, the following meanings; to wit,  
The word "place" includes county, riding, hundred, and other division or part of a county, city, borough, parish, district, and other place whatsoever:  
The expression "common lodging house" includes, in any case in which only a part of a house is used as a common lodging house, the part so used of such house (b).

By whom the Act is to be executed.

3. This Act shall be executed . . .

(1) By "The Commissioners of Police of the Metropolis" (c) . . .

(a) **Application of Act.**—This Act is repealed by 55 & 56 Vict. c. 19 (Statute Law Revision), except as to the Metropolis as defined by the Public Health Act, 1875 (38 & 39 Vict. c. 55) sec. 4, i.e., the City of London, and all parishes and places mentioned in schedules A., B., and C. of the Metropolis Management Act, 1855, *ante*, vol. i. The Act does not, however, extend to the City of London or the liberties thereof. Sec. 17, *infra*.

(b) **Common lodging house.**—As to the definition of "common lodging house" within the meaning of this Act, the following opinion of Sir A. E. Cockburn (afterwards Lord Chief Justice) and Sir W. Page Wood (afterwards Lord Chancellor Hatherley) was issued in a circular to local authorities by the General Board of Health in 1853:—"It may be difficult to give a precise definition of the term 'common lodging house,' but, looking to the preamble and general provisions of the Act, it appears to us to have reference to that class of lodging houses in which persons of the poorer class are received for short periods, and, though strangers to one another, are allowed to inhabit one common room. We are of opinion that it does not include hotels, inns, public houses, or lodgings let to the upper and middle classes." Referring to the expression "strangers to one another," the opinion went on to say that the intention was "to distinguish lodgers promiscuously brought together from members of one family or household." As to whether "lodging houses, otherwise coming within the definition, but let for a week or longer period," would, from the latter circumstance, be excluded from the operation of the Act, they said:—"We are of opinion that the period of letting is unimportant in determining whether a lodging house comes under the Act now in question." A lodging house was opened for the reception of the poorest persons only, who slept in one common room, and, at the discretion of the manager, were charged a sum not exceeding fourpence a night for bed, supper, and breakfast. The house was maintained partly with a charitable and partly with a religious object. *Held*, that the house being maintained as a charitable institution, and not for the purposes of gain, was not a common lodging house within the meaning of the Act. *Booth v. Ferrett*, 25 Q. B. D. 87; 59 L. J. M. C. 136. A lodging house where hawkers and persons of a similar class were received, staying for various periods, having their meals in one room, and paying sixpence a night, was held to be a common lodging house within the meaning of the Public Health Act, 1875 (38 & 39 Vict. c. 55), sec. 76. *Langdon v. Broadbent*, 42 J. P. 56; 37 L. T. (N. S.) 434. In proceedings under this Act, "if the inmates of any house or part of a house, allege that they are members of the same family, the burden of proving such allegation shall lie on the persons making it." Sanitary Act, 1866 (29 & 30 Vict. c. 90), sec. 41.

(c) **Commissioners of Police.**—The powers, duties, and liabilities of the Commissioners of Police of the Metropolis, as the local authority for executing within the administrative county of London the Common Lodging Houses Acts, 1851 and 1853, are transferred to the London County Council by the Local Government Board's Provisional Order Confirmation (No. 12) Act, 1894 (57 & 58 Vict. ch. cxxiv.). Provided that the keeper of a common lodging house, and every other person having or acting

4. The expenses of and incident to the executing of this Act shall be borne and paid . . .

14 & 15 Vict.  
c. 28.

(1) As part of the general expenses of executing the Acts for the time being in force relating to the metropolitan police force (*d*) :  
And the moneys from time to time required for the payment of the expenses of and incident to the execution of this Act shall be assessed, levied, raised, recovered, and paid accordingly.

As to expenses  
of executing  
this Act.

5. The expression in this Act "the local authority" means, with respect to the purposes and execution of this Act with respect to any place, the body or person by this Act authorised to execute with respect to the place the several provisions of this Act.

Meaning of  
the term  
"the local  
authority."

6. [Repealed by 38 & 39 Vict. c. 66. *Statute Law Revision*.]

7. The local authority shall keep a register in which shall be entered the names and residences of the keepers of all common lodging houses within the jurisdiction of the local authority, and the situation of every such house, and the number of lodgers authorised according to this Act to be received therein.

Registers of  
common lodg-  
ing houses to  
be kept.

8. [Repealed by 38 & 39 Vict. c. 66. *Statute Law Revision*.]

9. The local authority may from time to time make regulations respecting common lodging houses within its jurisdiction for all or any of the purposes respecting the same for which the local board of health are by the Public Health Act, 1848, authorised to make byelaws (*e*), and for the well-ordering of such houses, and for the separation of sexes therein: Provided always, that the regulations made under this Act by the local authority shall not be in force until they have been confirmed by one of Her Majesty's principal Secretaries of State (*f*).

Power to local  
authority to  
make regula-  
tions respect-  
ing common  
lodging houses.

10. The local authority shall have the same power of imposing penalties on offenders against the said regulations, subject to the same restrictions, as the local board with respect to offenders against such byelaws, and such penalties shall be recoverable in the same way as is provided in the said Act with respect to the penalties imposed on offenders against such byelaws (*g*): and a copy of the said regulations, purporting to be signed by the Secretary of State (*f*), and also to be signed by the local authority (or to be sealed with the seal of the same, in case it have a seal), shall be receivable in evidence of such regulations, and of the duly making and confirming thereof.

Power to local  
authority to  
impose penal-  
ties for offences  
committed  
against regula-  
tions.

11. The keeper of a common lodging house (*h*) shall, when a person in such house is ill of fever or any infectious or contagious disease, give immediate notice

Keepers of  
common lodg-  
ing houses to  
give notice of  
fever, &c.  
therein.

in the care or management thereof, shall at all times, when required by any officer of the Metropolitan Police Force, give him free access to such house or any part of it. *Ib*.

(*d*) Expenses.—The expenses of executing the Act are defrayed by the county council out of the county fund. 57 & 58 Vict. ch. cxxiv., *supra*.

(*e*) Regulations.—By the Public Health Act, 1848 (11 & 12 Vict. c. 63), sec. 66, the local boards of health were authorised to make byelaws for fixing the number of lodgers who may be received into each common lodging house, for promoting cleanliness and ventilation therein, and with respect to the inspection thereof, and the conditions and restrictions under which such inspection may be made.

(*f*) Confirmed by Secretary of State.—The Local Government Board is substituted for the Secretary of State by the Sanitary Law Amendment Act, 1874 (37 & 38 Vict. c. 89), sec. 46.

(*g*) Penalties.—By the Public Health Act, 1848, sec. 115, the local boards of health were empowered to impose upon offenders against their byelaws penalties not exceeding 5*l*. for each offence, and in the case of a continuing offence a further penalty not exceeding forty shillings for each day after written notice of such offence, provided that all such byelaws imposing such penalty should be so framed as to allow of the recovery of any sum less than the full amount of the penalty. By sec. 129 such penalties, with costs, were recoverable summarily.

(*h*) Keeper of common lodging house.—In answer to the question, "Who is to be considered the keeper of a common lodging house where the owner letting the lodgings does not reside in the house?" Sir A. E. Cockburn and Sir W. Page Wood, in the opinion referred to in note (*b*) to sec. 2, *supra*, said:—"We are of opinion that where he neither resides in the house nor exercises any control over its management, but simply receives the rent, he cannot be considered the keeper. It is clear that in such case he would not comply with the requirements of secs. 11, 12, and 13 of the Act, but where the owner, though not resident in the house, either in person or through an agent, colourably or otherwise, exercises control over its management, we



14 & 15 Vict.  
c. 28.

As to inspection of common lodging houses.

As to cleansing of common lodging houses.

Penalty for offences against this Act.

Recovery of penalties.  
8 & 9 Vict.  
c. 20.

thereof to the local authority, or some officer of the local authority, and also to the poor law medical officer and the poor law relieving officer of the union or parish in which the common lodging house stands (*i*).

12. The keeper of a common lodging house (*k*), and every other person having or acting in the care or management thereof, shall, at all times when required by any officer of the local authority, give him free access to such house or any part thereof (*l*).

13. The keeper of a common lodging house (*k*) shall thoroughly cleanse all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, privies, cess-pools, and drains thereof, to the satisfaction of and so often as shall be required by or in accordance with any regulation or byelaw of the local authority, and shall well and sufficiently, and to the like satisfaction, limewash the walls and ceilings thereof in the first week of each of the months of April and October in every year.

14. If the keeper of a common lodging house (*k*), or any other person having or acting in the care or management thereof, offend against any of the provisions of this Act, or any of the byelaws or regulations made in pursuance of this Act, or if any person in any common lodging house be confined to his bed for forty-eight hours by fever or any infectious or contagious disease, without the keeper of such house giving notice thereof as required by this Act, every person so offending shall for every such offence be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding forty shillings for every day during which the offence continues (*m*): Provided always, that this Act shall not exempt any person from any penalty or other liability to which he may be subject irrespective of this Act.

15. The clauses and provisions of the Railways Clauses Consolidation Act, 1845, "with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices" (*n*), are for the purposes and execution of this Act incorporated with this Act.

have no doubt that he should be considered the keeper. A serious difficulty arises where the owner, *bonâ fide*, lets different parts of the house to different individuals, and these lessees take in lodgers of such a description as would in an ordinary case constitute the house a common lodging house. The question which here arises is whether each apartment so used is to be considered a common lodging house of which the lessee is the keeper. It seems to us difficult to suppose that the Act which refers to common lodging houses was intended to apply to single apartments, so that every room in a house becomes a separate common lodging house. On the other hand it is to be observed that it is by sec. 2 provided that part of a house, if used as a common lodging house, shall be included in the Act, and it is also true that both under the law relating to burglary, and also with reference to the exercise of franchises, the separate apartments of lodgers, where the landlord did not reside, have been held to be dwelling-houses. Considering, therefore, that apartments thus let and occupied are especially within the mischief intended to be remedied by the Act, we think that an attempt should be made to treat them as common lodging houses, and to enforce the provisions of the Act with respect to them against the tenants who thus admit lodgers. At the same time, we feel bound to say we entertain considerable doubts as to the results." See also *Halligan v. Ganly*, 19 L. T. (N. S.) 268.

(*i*) **Notice of fever, &c.**—Where the inmate of any house within the district of a sanitary authority is suffering from an infectious disease, immediate notice must be sent to the medical officer of health of the district. Public Health (London) Act, 1891, sec. 55, *ante*, vol. i. As to the removal from common lodging houses of persons ill of fever or any infectious or contagious disease, see the Common Lodging Houses Act, 1853, sec. 7, *post*.

(*k*) **Keeper of common lodging house.**—See note (*h*) on page 747.

(*l*) **Access to common lodging house.**—In addition to giving the officers of the county council access, the keeper of every common lodging house is required to give any officer of the metropolitan police free access to such house. See note to sec. 3, *ante*.

(*m*) **Penalties.**—In default of payment of the penalty imposed, the person convicted may be imprisoned for any term not exceeding three months. Common Lodging Houses Act, 1853, sec. 11, *post*.

(*n*) **Railway Clauses Consolidation Act, 1845.**—The provisions of this Act here incorporated are contained in secs. 140—145, 148—150, 152—154, and 156—160. Secs. 140—145, 148—150, 152—154, and 156—158, are identical in terms with secs.

16. The local authority, and all justices, constables, and others, shall respectively have full jurisdiction, powers, authorities, and indemnities for executing the several provisions of this Act.

17. That this Act shall not extend to the city of London or the liberties thereof.

## SCHEDULE.

[Repealed by 38 & 39 Vict. c. 66. *Statute Law Revision.*]

## COMMON LODGING HOUSES ACT, 1853.

16 & 17 Vict. c. 41. An Act for making further provisions with respect to Common Lodging Houses. [4th August, 1853]

1. This Act may be cited for any purpose as "The Common Lodging Houses Act, 1853." Short title.

2. The Common Lodging Houses Act, 1851, and this Act shall be construed and executed as if they were one Act.

3. A person shall not keep a common lodging house (o) or receive a lodger therein until the house have been inspected and approved for that purpose by some officer appointed in that behalf by the local authority, and have been registered as by the recited Act provided; and a person shall not keep a common lodging house unless his name as the keeper thereof be entered in the register kept under the recited Act: (p) Provided always, that when the person so registered dies, his widow or any member of his family may keep the house as a common lodging house for not more than four weeks after his death without being registered as the keeper thereof.

4. The local authority may refuse to register as the keeper of a common lodging house a person who does not produce to the local authority a certificate of character in such form as the local authority shall direct, signed by three inhabitant householders of the parish respectively rated to the relief of the poor of the parish within which the lodging house is situate for property of the yearly rateable value of six pounds or upwards.

5. A copy of an entry made in a register kept under the recited Act, certified by the person having the charge of the register to be a true copy, shall be received in all courts and before all justices and on all occasions whatsoever as evidence, and be sufficient proof of all things therein registered, without production of the register or of any document, act, or thing on which the entry is founded; and every person applying at a reasonable time shall be furnished gratis by the person having such charge with a certified copy of any such entry.

142—147, 150—152, 154—156; and 158—160 respectively of the Companies Clauses Consolidation Act, 1845, *ante*, tit. "Baths and Washhouses," except that the words "or any Act incorporated therewith," in secs. 144—146, and 154—156, of the Companies Clauses Act, are omitted from the corresponding sections of the Railways Clauses Act. Secs. 159 and 160 of the Railways Clauses Act are identical in terms with secs. 88 and 89 of the Waterworks Clauses Act, 1847, *post*, tit. "Water."

(o) **Keep a common lodging house.**—For the meaning of common lodging house, see Common Lodging Houses Act, 1851, sec. 2, and note thereto, *ante*. As to who is a "keeper" of such house, see *ib.* sec. 11, and note thereto.

(p) **Notice of Registration.**—The keeper of every common lodging house which is registered under these Acts shall, when required to do so by the authority registering the same, cause a notice with the words "Registered Lodging House" to be affixed on some conspicuous place on the outside of the premises, where the same can be seen by any inspector or officer of the sanitary authority. Such notice shall be affixed within one month after the registration, and shall be continued undefaced and legible so long as the premises are used for the purpose. Every person who shall make default in this respect, or shall neglect or refuse to affix or renew such notice after requisition in writing from the sanitary authority, shall be liable to a penalty not exceeding five pounds for every offence, and of ten shillings for every day that the neglect shall continue after conviction. Sanitary Law Amendment Act, 1874 (37 & 38 Vict. c. 89), sec. 49.

As to what amounts to registration under the Public Health Act, 1875 (38 & 39 Vict. c. 55), sec. 86, see *Coles v. Fibbens*, 49 J. P. 308; 52 L. T. (N. S.) 358.

14 & 15 Vict.  
c. 28.

General  
powers of local  
authority, &c.

Act not to  
extend to the  
City of London.

Recited Act  
and this Act  
to be as one.

All common  
lodging houses  
to be registered  
before being  
used, and to  
be kept only  
by registered  
keepers.

Local authority  
may refuse to  
register houses,  
if keepers do  
not produce  
certificate of  
character.

Evidence of  
register.

16 & 17 Vict.  
c. 41.

Power to local  
authority to  
require an  
additional  
supply of water  
to common  
lodging houses.

As to removal  
of sick persons  
from common  
lodging houses  
to hospitals,  
&c.

Power to order  
reports from  
keepers of  
common lodg-  
ing houses kept  
for beggars and  
vagrants.

As to offences  
against this  
Act.

Conviction for  
third offence  
to disqualify  
persons from  
keeping com-  
mon lodging  
house.

6. When it appears to the local authority that a common lodging house is without a proper supply of water for the use of the lodgers, and that such a supply can be furnished thereto at a reasonable rate, the local authority may by notice in writing require the owner or keeper of the common lodging house, within a time specified therein, to obtain such supply, and to do all works necessary for that purpose; and if the notice be not complied with accordingly, the local authority may remove the common lodging house from the register until it be complied with.

7. When a person in a common lodging house is ill of fever or any infectious or contagious disease (g) the local authority may cause such person to be removed to an hospital or infirmary, with the consent of the authorities thereof, and on the certificate of the medical officer of the parish, place, or district that the disease is infectious or contagious, and that the patient may be safely removed, and may, so far as the local authority think requisite for preventing the spread of disease, cause any clothes or bedding used by such person to be disinfected or destroyed, and may, if the local authority think fit, award to the owners of the clothes and bedding so disinfected or destroyed reasonable compensation for the injury or destruction thereof, and such compensation shall be paid to such owners by the proper officer of the parish or union in which the common lodging house is situate, out of the rates applicable to the relief of the poor of such parish, the amount of such compensation being first certified in writing upon a list of such articles.

8. The keeper of a common lodging house in which beggars or vagrants are received to lodge, or other person having the care or management thereof, shall from time to time, if required by any order of the local authority served on such keeper or person, report to the local authority, or to such person or persons as the said local authority shall direct, every person who resorted to such house during the preceding day or night, and for that purpose schedules shall be furnished by the local authority to the persons so ordered to report, which schedules they shall fill up with the information required, and transmit to the local authority.

9. [*Repealed 41 & 42 Vict. c. 79. Statute Law Revision.*]

10. [*Repealed by Public Health Act, 1875 (38 & 39 Vict. c. 55), sec. 343.*]

11. The fourteenth section of the recited Act extends to offences against any of the provisions of this Act, so as to render the offenders liable to the penalties therein expressed, and any person convicted of any offence against the recited Act and this Act, or either of them, may, in default of payment of the penalty imposed, be imprisoned for any term not exceeding three months in the manner provided by law in that behalf.

12. Where a keeper of a common lodging house, or a person having or acting in the care or management of a common lodging house, is convicted of a third offence against the recited Act and this Act, or either of them, the justices before whom the conviction for such third offence takes place may, if they think fit, adjudge that he shall not at any time within five years after the conviction, or within such shorter period after the conviction as the justices think fit, keep or have or act in the care or management of a common lodging house without the previous licence in writing of the local authority, which licence the local authority may withhold or may grant on such terms and conditions as they think fit.

13—14. [*Repealed 41 & 42 Vict. c. 79. Statute Law Revision.*]

(g) **Fever, infectious or contagious disease.**—As to the notification to the local and sanitary authorities, see Common Lodging Houses Act, 1851, sec. 11 and note thereto, *ante*.



## MERCHANT SHIPPING ACT, 1894.

57 & 58 Vict.  
c. 60.57 & 58, Vict. c. 60. An Act to consolidate Enactments relating to  
Merchant Shipping. [25th August, 1894.]

\* \* \* \* \*

*Seamen's Lodging Houses.*

214. (1) A local authority hereinafter mentioned whose district includes a seaport may, with the approval of the Board of Trade, make byelaws relating to seamen's lodging-houses in their district, and those byelaws shall be binding upon all persons keeping houses in which seamen (*r*) are lodged and upon the owners thereof and persons employed therein.

(2) The byelaws shall, amongst other things, provide for the licensing, inspection, and sanitary conditions of seamen's lodging-houses, for the publication of the fact of a house being licensed, for the due execution of the byelaws, for preventing the obstruction of persons engaged in securing that execution, for the preventing of persons not duly licensed holding themselves out as keeping or purporting to keep licensed houses, and for the exclusion from licensed houses of persons of improper character, and shall impose sufficient fines not exceeding fifty pounds for the breach of any byelaw (*s*).

(3) The byelaws shall come into force from a date therein named, and shall be published in the London Gazette and in one newspaper at the least circulating in the district, and designated by the Board of Trade.

(4) If the local authority do not within a time in each case named by the Board of Trade make, revoke, or alter any byelaws under this section, the Board of Trade may do so (*t*).

(5) Whenever Her Majesty in Council orders (*u*) that in any district or any part thereof none but persons duly licensed in pursuance of byelaws under this section shall keep seamen's lodging-houses or let lodgings to seamen from a date therein named, a person acting in contravention of that order shall for each offence be liable to a fine not exceeding one hundred pounds.

(6) A local authority may defray all expenses incurred in the execution of this section out of any funds at their disposal as sanitary authority, and fines recovered for a contravention of this section or by any byelaw under this section shall be paid to such authority and added to those funds.

(7) In this section the expression "local authority" means in the administrative county of London the County Council. . . . .

\* \* \* \* \*

(*r*) **Seamen** includes every person (except masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship, *ib.* sec. 742.

(*s*) **Recovery of fine.**—The fine is recoverable summarily as a civil debt. Merchant Shipping Act, 1894, secs. 680 and 681 (2). If the fine inflicted exceeds five pounds, an appeal lies to quarter sessions, *ib.* sec. 682. The proceedings must be commenced within six months after the commission of the offence or after the cause of complaint arises; or if both or either of the parties to the proceeding happen to be out of the United Kingdom during that time, then, in the case of a summary conviction, within two months, and in the case of a summary order, within six months after they both first happen to arrive or be at one time within the United Kingdom, *ib.* sec. 68. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be, *ib.* sec. 684. As to the manner of commencing summary proceedings, and the mode and time of appealing to quarter sessions, see note to the Metropolis Management Act, 1855, sec. 227, *ante*, vol. i.

(*t*) **Board of Trade may make byelaws.**—This power had not been exercised up to the time of the publication of this work.

(*u*) **Order in Council.**—No Order in Council under this section had been made up to the time of the publication of this work.

## CORONERS.

|                                                         |          |
|---------------------------------------------------------|----------|
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## CORONERS' ACT, 1844.

7 & 8 Vict. c. 92. An Act to amend the Law respecting the Office of County Coroner. [9th August, 1884.]

1. [*Repealed 54 & 55 Vict. c. 67, Statute Law Revision.*]

Petition for  
division of  
counties.

2. When and as often as it shall seem expedient to the *justices of any county* (b) that such county should be divided into two or more districts for the purposes of this Act, or that any alteration should be made of any division theretofore made under this Act, it shall be lawful for the said *justices, in general or quarter session assembled* (b), to resolve that a petition shall be presented to Her Majesty, praying that such division or alteration be made, and thereupon to adjourn the further consideration of such petition until notice thereof shall be given to the coroner or coroners of such county as hereinafter provided.

Preparation of  
petition.

3. The *clerk of the peace* (b) shall give notice of any such resolution to every coroner for such county, and of the time when the petition will be taken by the said *justices* (b) into consideration, and the *justices* (b) shall confer with every such coroner, who shall attend the meeting of the *justices* (b) for that purpose, touching such petition, having due regard to the size and nature of each proposed district, the number of the inhabitants, the nature of their employments, and such other circumstances as shall appear to the *justices* (b) fit to be considered in carrying into execution the provisions of this Act; and such petition, with a description of the several proposed districts, and of the boundaries thereof, with the reasons upon which the petition is founded, shall be certified to Her Majesty under the hands and seals of two or more of the *justices* (b) present when such petition shall be agreed to, and the *clerk of the peace* (c) for such county shall forthwith give or send a true copy of such petition, certified under his hand, to every coroner for such county.

Division of the  
county into dis-  
tricts.

4. It shall be lawful for Her Majesty, if she shall think fit, with the advice of her Privy Council, after taking into consideration any such petition, and also any petition which may be presented to her by any coroner of the same county concerning such proposed division or alteration, or whenever it shall seem fit to Her Majesty to direct the issue of a writ de coronatore eligendo, for the purpose of authorising the election of an additional coroner above the number of those who have been theretofore customarily elected in such county, to order that such county shall be divided into such and so many districts, for the purposes of this Act, as to Her Majesty, with the advice aforesaid, shall seem expedient, and to give a name to each of such districts (d), and every such order shall be published in the London Gazette.

(a) **Short title and application of Act.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14). The business of the justices in respect of the salary of any coroner whose salary is payable out of the county rate, the fees, allowances, and disbursements allowed to be paid by any such coroner, and the division of the county into coroners' districts, and the assignment of such districts, is transferred to the county council by the Local Government Act, 1888, sec. 3 (xi.) *ante*, vol. i. The appointment of coroners for such districts also lies with the county council, *ib.* sec. 5 (2).

(b) **Justices.**—Now the county council. See note (a) *supra*.

(c) **Clerk of the peace.**—Now the clerk of the county council. Local Government Act, 1888, sec. 83 (6), *ante*, vol. i.

(d) **Coroners' districts.**—By Order in Council dated 23th August, 1892 (London Gazette, 6th September, 1892), as amended by Order in Council dated 28th May, 1894 (London Gazette, 1st June, 1894), London is divided into eight districts for coroners' purposes, viz:—

1. *The Eastern*, which comprises Bromley, St. Leonards; St. Anne, Limehouse; Mile End New Town; Mile End Old Town; All Saints', Poplar; St. Mary, Stratford-le-

5. The *justices in general or quarter session assembled* (e) shall assign one of such districts to each of the persons holding the office of coroner in such county, and upon the death, resignation, or removal of any such person each of his successors, and also every other person thereafter elected into the office of coroner in such county, . . . shall exercise the office of coroner, according to the provisions of this Act, and shall reside within the district in and for which he shall be elected, or in some place wholly or partly surrounded by such district, or not more than two miles beyond the outer boundary of such district.

7 & 8 Vict.  
c. 92.

Districts to be  
assigned to  
coroners.

6. Whenever it shall appear to Her Majesty, with the advice aforesaid, and shall be set forth in the said Order in Council, that any such county has been customarily divided into districts for the purpose of holding inquests during the space of seven years before the passing of this Act, and it shall seem expedient to Her Majesty, with the advice aforesaid, that the same division of the county be made under this Act, each of such districts shall be assigned to the coroner usually acting in and for the same district before the passing of this Act; but if it shall appear expedient to Her Majesty, with the advice aforesaid, that a different division of such county be made, and any such coroner shall present a petition to Her Majesty, praying for compensation to him for the loss of his emoluments arising out of such change, it shall be lawful for Her Majesty, with the advice aforesaid, to order the Treasury to assess the amount of compensation which it shall appear to them ought to be awarded to such coroner, and the amount of such compensation shall be paid by the treasurer of the county to such coroner, his executors or administrators, out of the county rate.

Provision for  
coroners al-  
ready acting  
in districts.

7. [*Repealed* 54 & 55 Vict. c. 67. *Statute Law Revision.*]

8—18. [*Repealed by the Coroners Act, 1887* (50 & 51 Vict. c. 71), *sec. 45 post.*]

19. Every coroner elected under the authority of this Act, although such coroner may be designated as the coroner for any particular district of a county . . . shall for all purposes whatsoever, except as hereinafter mentioned, be considered as a coroner for the whole county, and shall have the same jurisdiction, rights, powers, and authorities throughout the said county as if he had been elected one of the coroners of the said county. . . .

Coroner,  
although  
elected for a  
district, shall  
be considered  
as coroner for  
the whole  
county, except.  
&c.

Bow; Ratcliffe; that part of St. George-in-the-East which lies in the county of London; precinct of St. Catherine: St. Paul, Shadwell; St. John, Wapping; that part of St. Mary. Whitechapel, which lies in this county; St. Botolph Without, Aldgate; Christ Church, Spitalfields; and the liberty of Norton Folgate.

2. *The North-Eastern*, which comprises St. Matthew, Bethnal Green; St. John at Hackney; St. Luke; St. Leonard, Shoreditch; and St. Mary, Stoke Newington.

3. *The Central*, which comprises St. Giles-in-the-Fields and St. George, Bloomsbury; that part of St. Andrew, Holborn, which lies above Bars, and St. George-the-Martyr; liberty of Saffron Hill, Hatton Garden, Ely Rents, and Ely Place; liberties of Glasshouse Yard and the Rolls; St. Pancras; St. John, Hampstead; St. Marylebone; Paddington; St. Sepulchre; Clerkenwell; Islington; Lincoln's Inn; Gray's Inn; Staple Inn; that part of Fumival's Inn which lies outside the City; and Charterhouse.

4. *The Western*, which comprises Kensington; Chelsea; Fulham; and Hammersmith.

5. *The Penge*, which comprises the hamlet of Penge.

6. *The Southern*, which comprises Camberwell; Hatcham; Streatham; Christchurch; Newington; St. Saviour's; including the Clink Liberty, but excluding the portion within the borough of Southwark; and so much of Lambeth as lies to the south and south-east of the Clapham and Kennington Park Roads.

7. *The South-Western*, which comprises Battersea; Putney; Tooting; Wandsworth; and so much of Lambeth as lies to the north and north-west of the Clapham and Kennington Park Roads.

8. *The South-Eastern*, which comprises St. Paul, Deptford; St. Nicholas, Deptford; Greenwich; Charlton (S.E.); Woolwich; Plumstead; Lewisham; Eltham; Lee; Kidbrooke; Rotherhithe; and Bermondsey.

These districts "are to be deemed not to include any parishes or places, or parts thereof, which were, prior to the 1st April, 1889, exempt from the jurisdiction of the coroners of the counties of Middlesex, Surrey, and Kent respectively, whether such parishes, places, or parts thereof, are" therein "named, or included, or not," *ib.* The City and other franchise coroners are, therefore, not affected. As to these see the Coroners Act, 1887, secs. 29, 30, and 42, *post*.

(e) *Justices*.—Now the county council. See note (a) on p. 752.



7 & 8 Vict.  
c. 92.

Coroners to be paid travelling expenses where inquisition shall not be taken.

20. [*Present and future coroners (except during illness, &c., of coroner for another district, or in case of vacancy in the office) to hold inquests only within the district to which they shall have been assigned or elected.*]

21. And whereas doubts have arisen as to the power of the *justices* (f) to order the payment of allowances for travelling in any case where an inquisition has not been taken, although such coroner has been compelled to travel from his usual place of abode for the purpose of taking an inquisition; be it therefore enacted, that it shall and may be lawful for the *justices of the peace in their general or quarter sessions assembled* (f) for the county, riding, division, or liberty where such inquisition would have been taken, or the major part of them, if they shall see fit, to order the payment of such allowances for travelling to any coroner who shall show, to the satisfaction of the said *justices*, that he has been compelled, in the discharge of his office, to travel from his usual place of abode (g) for the purpose of taking an inquisition, but which, in the exercise of his discretion, he deemed to be unnecessary, and declined to take.

22—26. [*Repealed by Coroners Act, 1887, post.*]

To what place this Act shall not extend.

27. And be it enacted, that nothing in this Act contained touching the divisions of counties into districts, or the appointment or election of coroners, shall extend to any city, borough, town, liberty, franchise, part, or place the appointment or election of coroner whereof takes place by law otherwise than under the writ de coronatore eligendo.

Meaning of "county."

28. And be it enacted, that in construing this Act the word "county" shall be taken to mean county, riding, or division of a county in and for which a separate coroner hath been customarily elected.

29. [*Repealed 54 & 55 Vict. c. 67. Statute Law Revision.*]

30. [*Repealed by Coroners Act, 1887, sec. 45, post.*]

31. [*Repealed 37 & 38 Vict. c. 96. Statute Law Revision.*]

#### COUNTY CORONERS ACT, 1860 (h).

23 & 24 Vict. c. 116. An Act to amend the Law relating to the Election, Duties, and Payment of County Coroners. [28th August, 1860]

1—3. [*Repealed by the County Coroners Act, 1887, post.*]

County coroners to be paid by salary.

4. There shall be paid to every county coroner, in lieu of the fees, mileage, and allowances which if this Act had not been passed he would have been entitled to receive, such an annual salary as shall be agreed upon between him and the *justices in general or quarter sessions assembled* (f) for the county for which, or for some portion of which, such coroner shall act . . . and such salary shall be paid quarterly to such coroner by the treasurer of the county out of the county rate; and whenever from death, removal, or any other cause whatever any county coroner shall not be entitled to a salary for the whole of a quarter, a proportionate part of the salary shall be paid to him, or, in case of his death, to his personal representatives: Provided always, that in case any such *justices* (i) and any such county coroner as aforesaid shall be unable to agree as to the amount of the salary to be paid to such coroner, it shall be lawful for Her Majesty's Principal Secretary of State for the Home Department, and he is required, upon the application of such coroner, to fix and determine the amount

(f) *Justices*.—Now the county council. See note (a), p. 752.

(g) *Travel from his usual place of abode*.—Under the repealed 25 Geo. 2, c. 29, sec. 1, it was held that a coroner was not entitled to any compensation for the miles travelled by him in returning to his usual place of abode. *Rex v. Oxfordshire JJ.*, 2 B. & Ald. 203. Under the same Act, where a coroner held two or more inquisitions at the same place on the same day, he was only entitled to one sum for travelling expenses. *Rex v. Warwick JJ.*, 5 B. & C. 430. But see now as to coroners' expenses the Coroners Act, 1887, secs. 25—27, *post*.

(h) *Short title*.—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

of such salary (*k*), having regard to such average as aforesaid, also the average number of inquests held by any such coroner in the preceding five years as aforesaid, and also to the special circumstances of each case, and the general scale of salaries of county coroners; provided also, that after the lapse of every successive period of five years (*l*) it shall be lawful for any such *Justices* (*m*) and such coroner as aforesaid to revise, and thereby increase or diminish, any such salary, having regard to the average number of inquests held by any such coroner in the five years immediately preceding, and subject in case of their disagreement to such appeal to the Home Secretary as before mentioned. . . . .

23 & 24 Vict.  
c. 113.

5—6. [*Repealed by Coroners Act, 1887, sec. 45, post.*]

7. [*Relates to County of Chester.*]

8. The word "county" in and throughout this Act shall be deemed and taken to include all counties, ridings, divisions, hundreds, wards, liberties, and other places the coroners whereof are paid out of the county rates.

Interpretation  
of "county."

9. [*Repealed by Coroners Act, 1887, sec. 42, post.*]

10. [*Act to extend to England and Wales.*]

### CORONERS ACT, 1887.

50 & 51 Vict. c. 71. An Act to consolidate the Law relating to Coroners. [16th September, 1887]

#### PRELIMINARY.

1. This Act may be cited as the Coroners Act, 1887.

Short title.

2. This Act shall not apply to Scotland or Ireland.

Extent of Act.

#### PART I.

#### LAW OF CORONERS.

##### *Inquest.*

3. [*Summoning and swearing of jury by coroner.*]

4. [*Proceedings at inquest—evidence and inquisition.*]

5. [*Proceedings upon inquisition charging person with murder or manslaughter.*]

6. [*Power to High Court to order coroner to hold inquest.*]

7.—(1) The coroner only within whose jurisdiction the body of a person upon whose death an inquest ought to be holden is lying shall hold the inquest, and where a body is found dead in the sea, or any creek, river, or navigable canal within the flowing of the sea where there is no deputy coroner for the jurisdiction of the Admiralty of England, the inquest shall be held only by the coroner having jurisdiction in the place where the body is first brought to land.

Local jurisdiction of coroner.

\* \* \* \* \*

##### *Liabilities of Coroner.*

8.—(1) The Lord Chancellor may, if he thinks fit, remove any coroner from his office for inability or misbehaviour in the discharge of his duty.

Removal and punishment of coroner (*n*).

(*k*) **Determination of Home Secretary.**—There is no appeal to the High Court from the decision of the Home Secretary, which is final. *Ex parte Drifffield*, L. R. 7 Q. B. 207; 20 W. R. 240.

(*l*) **Period of five years.**—A coroner on his appointment is entitled to have a new settlement or fixing of his salary, and such salary as so fixed continues for a period of five years without reference to the time when his predecessor's salary was last settled or revised, and even though during the period of five years his district has been divided and a new coroner appointed to one of the divisions. *Baxter v. London County Council*, 55 J. P. 391; 63 L. T. (N. S.) 767. A coroner's right to enforce payment of such salary is by prerogative writ of *mandamus*, *ib*.

(*m*) **Justices.**—Now the county council. See note (*a*), p. 752.

(*n*) **Removal of coroner.**—The provisions of this section are declaratory of the common law, and of the power of the Lord Chancellor to issue writs de coronatore exonerando, which is established by constant usage. See *Ex parte Parnell*, 1 J. & W. 455. The only jurisdiction which is not in terms preserved appears to be the power of the High Court to treat any misdemeanour on the part of a coroner as a contempt of court, and to visit it accordingly. "Jervis on Coroners," 5th ed., p. 109.

50 & 51 Vict.  
c. 71.

(2.) A coroner who is guilty of extortion or of corruption or of wilful neglect of his duty or of misbehaviour in the discharge of his duty shall be guilty of a misdemeanor, and in addition to any other punishment may, unless his office of coroner is annexed to any other office, be adjudged by the court before whom he is so convicted to be removed from his office, and to be disqualified for acting as coroner, and if he is a coroner for a county, a writ shall issue for an election of another coroner, and if he is a coroner of a borough, the council of the borough, and if he is a coroner for a franchise the lord or other person or persons entitled to the appointment of the coroner, shall forthwith proceed to appoint another coroner as in the case of any other vacancy.

9. [*Fine on coroner for neglect as to inquisition, depositions, recognizances, &c.*]

10. [*Coroner not to act as solicitor and as coroner in same case.*]

#### *Appointment and Payment of County Coroner.*

11. [*Election of county coroner. Repealed and replaced by Local Government Act, 1888, sec. 5, ante, vol. i.*]

Qualification  
of county  
coroner.

12. Every coroner for a county shall be a fit person (*o*) having land in fee, sufficient in the same county whereof he may answer to all manner of people (*p*).

13. [*Repealed and replaced by Coroners Act, 1892, post.*]

14. [*Proceedings for election of county coroner. Repealed and replaced by Local Government Act, 1888, sec. 5, ante, vol. i.*]

Payment of  
coroners when  
they act for  
sheriffs.

15. Where any writ, process, or extent whatsoever is directed to and executed by a coroner for a county in the place of a sheriff, the coroner shall, in addition to any salary to which he is entitled, receive the same poundage fees or other compensation or reward for executing the writ, process, or extent, and have the same right to retain, and all other remedies for the recovery of the fees, compensation, or reward as the sheriff would have been entitled to and had in whose place such coroner was substituted; and if the fees or compensation payable to the sheriffs are at any time after the passing of this Act increased by Act of Parliament or otherwise, the coroner shall be entitled to such increased fees or compensation.

Fees on recog-  
nizances.

16. Where a coroner admits a person charged with manslaughter to bail, he shall be entitled to the like fee as a clerk to a justice of the peace is entitled to on the admission to bail of a person so charged (*q*).

Prohibition on  
coroner taking  
fee.

17. Save as is authorised by this or any other Act, a coroner shall not take any fee or remuneration (*r*) in respect of anything done by him in the execution of his office.

#### PART II.

#### SUPPLEMENTAL.

##### *Procedure.*

18. [*Enactments with respect to procedure at inquests.*]

19. [*Attendance of witnesses and jurors.*]

20. [*Inquisition to be amended and not quashed for defects.*]

(*o*) **Fit person.**—County councillors or county aldermen are not eligible for the office of coroner. Local Government Act, 1888, sec. 5 (1), *ante*, vol. i.

(*p*) **Land in fee sufficient.**—"This is practically a re-enactment of the 14 Edw. 3 st. 1, c. 8, which, in consequence of no precise amount of land being mentioned, has never been very strictly enforced, and, indeed, the opinion has prevailed, that if a coroner were a person of substance, the amount of land which he might hold in the county would be immaterial. It must now, however, be taken to be intended to be enforced, and at least a substantial holding of land is an essential qualification. . . . If now a person is appointed by the council who is otherwise fit, but not a freeholder, it would be necessary to make application to the High Court, or to the Lord Chancellor, who would exercise their discretion as to the removal of the nominee of the council." "Jervis on Coroners," 5th ed., p. 73.

(*q*) **Fees of clerk to justice.**—As to the fees of the justices clerks see the Justices Clerks Act, 1877 (40 & 41 Vict. c. 43).

(*r*) **Remuneration.**—As to the salary of a county coroner see sec. 43, *post*, and the Coroners Act, 1844, sec. 4, *ante*.



*Medical Witnesses and Post-mortem Examinations.*50 & 51 Vict.  
c. 71.

21. [Power of coroner to summon medical witnesses and to direct performance of post-mortem examination.]

22. A legally qualified medical practitioner (s) who has attended at a coroner's inquest in obedience to a summons of the coroner under this Act shall be entitled to receive such remuneration as follows: that is to say,

Fees to medical  
witnesses.

- (a) For attending to give evidence at any inquest whereat no post-mortem examination has been made by such practitioner, one guinea; and
- (b) For making a post-mortem examination of the body of the deceased, with or without an analysis of the contents of the stomach or intestines, and for attending to give evidence thereon, two guineas:

Provided that—

- (1) Any fee or remuneration shall not be paid to a medical practitioner for the performance of a post-mortem examination instituted without the previous direction of the coroner:
- (2) Where an inquest is held on the body of a person who has died in a county or other lunatic asylum, or in a public hospital, infirmary, or other medical institution, or in a building or place belonging thereto, or used for the reception of the patients thereof, whether the same be supported by endowments or by voluntary subscriptions, the medical officer, whose duty it may have been to attend the deceased person as a medical officer of such institution as aforesaid, shall not be entitled to such fee or remuneration.

23. [Penalty on medical practitioner for neglecting to attend.]

24. Where a place has been provided by a sanitary authority or nuisance authority for the reception of dead bodies during the time required to conduct a post-mortem examination (t), the coroner may order the removal of a dead body to and from such place for carrying out such examination, and the cost of such removal shall be deemed to be part of the expenses incurred in and about the holding of an inquest.

Removal of  
body for  
post-mortem  
examination.*Expenses and Returns of Inquests.*

25. The local authority (u) for a county or borough from time to time may make, and when made may alter and vary a schedule of fees, allowances (x), and disbursements which on the holding of an inquest may lawfully be paid and made by the coroner holding such inquest (other than the fees payable to medical witnesses (y) in pursuance of this Act), and the local authority shall cause a copy of every such schedule to be deposited with the clerk of the peace of the county or with the town clerk of the borough, and one other copy thereof to be delivered to every coroner concerned.

Schedule of  
fees and dis-  
bursements  
payable on  
holding  
inquest.

26. A coroner holding an inquest shall immediately after the termination of the proceedings pay the fees of every medical witness not exceeding the fees fixed by this Act (y) and all expenses reasonably incurred in and about the holding thereof, not exceeding the sums set forth in the schedule of fees for the time being in force under this Act, and the sum so paid shall be repaid to the coroner in manner provided by this Act (z).

Payment of  
expenses by  
coroner.

(s) **Legally qualified medical practitioner**—*i.e.*, a person registered under the Medical Act, 1858 (21 & 22 Vict. c. 90), sec. 34; or if a colonial or foreigner, under the Medical Act, 1886 (49 & 50 Vict. c. 48), sec. 14.

(t) **Post-mortem examination**.—As to the power and duty of vestries and district boards to provide buildings for post-mortem examinations, see the Public Health (London) Act, 1891, secs. 90 and 91, *ante*, vol. i.

(u) **Local authority**.—See sec. 41, *post*, and note thereto as to who are the local authorities in the metropolis.

(x) **Allowances**.—As to allowances for travelling where no inquest is held, see Coroners Act, 1844, sec. 21, *ante*.

(y) **Medical witnesses**.—The fees of medical witnesses are prescribed by sec. 22, *supra*.

(z) **Reimbursement of expenses**.—Under similar provisions of the repealed 7 Will. 4 and 1 Vict. c. 68, sec. 1, it was held that disbursements made by the coroner after the termination of the inquest must be repaid to him, whether it was proper that such inquest should be held or not, and that the local authority had no power to disallow them. *Reg. v. Carmarthenshire JJ.*, 10 Q. B. 796; 16 L. J. M. C. 157.

50 & 51 Vict.  
c. 71.

Coroners to  
lay their  
accounts before  
the local  
authority.

27.—(1) Every coroner shall, within four months after holding an inquest, cause a full and true account of all sums paid by him under this Act to be laid before the local authority of the county or borough by whom the sums are to be reimbursed to him.

(2) Every account shall be accompanied by such vouchers as under the circumstances may to the local authority seem reasonable, and the local authority may, if they think fit, examine the said coroner on oath as to the account, and on being satisfied of the correctness thereof, the local authority shall order their treasurer to pay to the coroner the sum due to him on such account, with the addition, in the case of a coroner of a borough, of six shillings and eight pence for each inquest; and the treasurer shall pay the same out of the local rate (a), without any abatement or deduction whatever, and shall be allowed the same on passing his accounts.

28. [*Coroners of boroughs to make yearly returns to Secretary of State.*]

*Coroner of the Queen's Household.*

Appointment  
and juris-  
diction of the  
coroner of  
the Queen's  
household.

29.—(1) The coroner of Her Majesty the Queen's household shall continue to be appointed by the Lord Steward for the time being of the Queen's household.

(2) The coroner of the Queen's household shall have exclusive jurisdiction in respect of inquests on persons whose bodies are lying within the limits of any of the Queen's palaces or within the limits of any other house where Her Majesty is then demurant and abiding in her own royal person, notwithstanding the subsequent removal of Her Majesty from such palace or house.

(3) The jurors on an inquest held by the coroner of the Queen's household shall consist of officers of the Queen's household, to be returned by such officer of the Queen's household as may be directed to summon the same by the warrant of the said coroner.

(4) The limits of the said palace or house shall be deemed to extend to any courts, gardens, or other places within the curtilage of such palace or house but not further, and where a body is lying dead in any place beyond those limits, the coroner of the Queen's household shall not have jurisdiction to hold an inquest on such body, and the coroner of the county or borough shall have jurisdiction to hold that inquest in the same manner as if that place were not within the verge.

(5) Where the inquisition charges a person with murder or manslaughter, the coroner of the Queen's household shall deliver the inquisition, depositions, and recognizances to the Lord Steward of the Queen's household, or in his absence, to the treasurer and comptroller of the Queen's household, and the recognizances shall be taken for the appearance of the persons bound by them before the said Lord Steward, or in his absence before the said treasurer and comptroller.

(6) All other inquisitions, depositions, and recognizances shall be delivered to the Lord Steward of the Queen's household to be filed among the records of his office.

(7) The coroner of the Queen's household shall make his declaration of office before the Lord Steward of the Queen's household, and shall reside in one of the Queen's palaces, or in such other convenient place as may from time to time be allowed by the Lord Steward of the Queen's household.

(8) Save as is in this section specially provided, the coroner of the Queen's household shall, within the said limits have the same jurisdiction and powers, be subject to the same obligations, liabilities, and disqualifications, and generally to the provisions of this Act and to the law relating to coroners in like manner as any other franchise coroner.

(9) The Lord Steward of the Queen's household or the treasurer and comptroller of the Queen's household shall not have any jurisdiction to inquire of, try, hear, or determine, any offence committed beyond the limits aforesaid, or to array, try, or give judgment upon any person charged by any inquisition found before a coroner for any place beyond the limits aforesaid, and every such offence shall be inquired of, tried, heard, and determined, and every such person shall be arraigned, tried, and have judgment according to the ordinary course of law.

(a) *Local Rate.*—See note to sec. 41 (c), *post*.

*Franchise Coroners (b).*50 & 51 Vict.  
c. 71.

30.—(1) Where a franchise coroner is, at the passing of this Act, paid a salary out of the local rate, the provisions of this Act with respect to the expenses of inquests, shall apply as if such coroner were a coroner for a county.

(2) Nothing in this Act shall affect the remuneration to which a franchise coroner who is not at the passing of this Act paid a salary out of the local rate is entitled at the passing of this Act, and every such coroner shall continue to be entitled to receive the same fees, allowances, and remuneration as he would have been entitled to if this Act had not passed.

(3) Nothing in this Act shall affect the mode in which a franchise coroner is appointed, or is, otherwise than is provided by this Act, removed.

(4) Subject as aforesaid, the provisions of this Act shall apply to a franchise coroner, except those provisions in which a coroner for a county or a coroner of a borough is expressly named.

31. The provisions of this Act with respect to the expenses of inquests shall apply to the city of London and the borough of Southwark.

32. [*Payment of travelling expenses of coroner in Cinque Ports where inquisition is not taken.*]

Saving for remuneration of franchise coroners.

Provisions as to expenses of inquests to extend to city of London.

*Savings and Miscellaneous.*

33. [*Saving as to borough coroners.* 45 & 46 Vict. c. 50.]

34. Nothing in this Act shall prejudice the jurisdiction of a judge exercising the jurisdiction of a coroner by virtue of his office, and such judge may, notwithstanding the passing of this Act, exercise any jurisdiction, statutable or otherwise, previously exercisable by him, in the same manner as if this Act had not passed (c).

35. Nothing in this Act shall prejudice the jurisdiction of the Lord Chancellor or the High Court of Justice in relation to removing a coroner otherwise than in manner provided by this Act, or in any manner prejudice or affect the jurisdiction of the High Court of Justice or of any judge thereof in relation to or over a coroner or his duties (d).

36. [*Power to coroner to hold inquest on treasure trove.*]

37. [*Effect of schedules.*]

Saving clause as to official coroners.

Saving of jurisdiction as to removal of coroner, or otherwise, in relation to a coroner.

*Definitions.*

38. In this Act the expression "county," unless there is something inconsistent in the context, does not include a county of a city or a county of a town, but includes any division or liberty of a county which has a separate court of quarter sessions for which a separate coroner has customarily been elected. . . . .

39. [*Provision for application of Act to county of Lancaster.*]

40. [*Provisions as to detached parts of counties (e).*]

41. For the purposes of this Act—

(a.) The local authority of a county shall be the court of quarter sessions of the county (f); and

Construction of Act with respect to counties.

Definition of "local authority" and "local rate."

(b) **Franchise coroner** is defined by sec. 42, *post*; and see note thereto as to franchise coroners in the metropolis.

(c) **Judge exercising jurisdiction of coroner.**—The Lord Chief Justice of England is, by virtue of his office, supreme coroner over all England, and the justices of the High Court are, by the same authority, sovereign coroners. The jurisdiction of these high officers extends over the whole realm, and within the Queen's household, and all other exempt jurisdictions and franchises. But they have no power to delegate their authority. "Jervis on Coroners," 5th ed., p. 108.

(d) **Removal of coroner.**—See sec. 8, *ante*, and note thereto.

(e) **Detached parts of counties.**—No part of the county of London is detached, and no detached part of any other county is situate in London. See Local Government Act, 1888, sec. 40 (1), *ante*, vol. i.

(f) **Court of quarter sessions.**—Now the county council. Local Government Act, 1888, secs. 3 (xi.) and 5, *ante*, vol. i. As to the appointment and expenses of the city and other franchise coroners see note to sec. 42, *infra*.



50 & 51 Vict.  
c. 71.

Definitions.

"Quarter  
sessions."

"Borough."

45 & 46 Vict.  
c. 50.

"Franchise  
coroner."

"Secretary of  
State."

"Murder."

"Parish."

(c.) The local rate shall be, in the case of a county, the county rate, or rate in the nature of a county rate (g). . . . .

**42.** In this Act, if not inconsistent with the context, the following terms and expressions have the meanings hereinafter respectively assigned to them.

The expression "quarter sessions" includes general sessions.

The expression "borough" means any place for the time being subject to the Municipal Corporations Act, 1882, and the Acts amending the same.

The expression "franchise coroner" means any of the following coroners, that is to say, the coroner of the Queen's household, a coroner or deputy coroner for the jurisdiction of the Admiralty, a coroner appointed by Her Majesty the Queen in right of her Duchy of Lancaster, and a coroner appointed for a town corporate, liberty, lordship, manor, university, or other place, the coroner for which has heretofore been appointed by any lord, or otherwise than by election of the freeholders of a county, or of any part of a county, or by the council of a borough, and the expression "franchise" means the area within which the franchise coroner exercises jurisdiction (h).

The expression "Secretary of State" means one of Her Majesty's principal Secretaries of State.

The expression "murder" includes the offence of being an accessory before the fact to a murder.

The expression "parish" means a parish, township, or place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed.

The expression "the Lord Chancellor" means the Lord High Chancellor of Great Britain.

The expression "Registration Acts" means the Acts for the time being in force relating to the registration of deaths, inclusive of any enactment amending the same.

*Temporary Provisions and Repeal.*

Savings as to  
coroners'  
salaries and  
districts.

**43.** Nothing in this Act shall affect the law respecting the salaries of coroners for counties, or the division of a county into coroners districts, or the rights and duties of coroners as respects such districts.

**44.** [*Abolition of certain jurisdictions of the coroner.*]

Repeal of Acts  
in schedule.

**45.** The Acts specified in the third schedule to this Act are hereby repealed, from and after the passing of this Act, to the extent specified in the third column of that schedule.

Provided that—

(1) A coroner elected before the passing of this Act, shall continue to hold office in like manner as if he had been elected under this Act, and

(2) Any schedule of fees, allowances, and disbursements made by a local authority for a county or borough before the passing of this Act shall, until

(g) **Local Rate.**—The City does not contribute to the expenses of the county council under the Coroners Acts, which are therefore defrayed out of the special county fund. Local Government Act, 1888, secs. 41 (3) and 68 (3), *ante*, vol. i.

(h) **Franchise coroner.**—Franchise and liberty are used as synonymous terms. Their definition is a royal privilege or branch of the Crown's prerogative, subsisting in the hands of a subject. The franchise must arise from royal grant, or from prescription, which presupposes a grant. 1 Steph. Comm. Bk. ii. The appointment of franchise coroners is not transferred to the county council by the Local Government Act, 1888, sec. 5, *ante*, vol. i. *London County Council, Ex parte* (1892), 1 Q. B. 33; 61 L. J. Q. B. 27. In the City the Lord Mayor is the chief coroner, the officiating coroner being elected by the common council, and his remuneration and disbursements being paid out of the funds of the City Corporation. The coroner for the borough and liberty of Southwark is elected by the common council, in pursuance of a charter granted by Edward 6; the coroner for the Duchy of Lancaster is appointed by the Chancellor of the Duchy; the coroner for the city of Westminster is appointed by the Dean and Chapter of Westminster; and the coroner for the liberty of the Tower is appointed by the Constable of the Tower; the county council in each case paying the coroner's salary and disbursements. The President of the Admiralty Division of the High Court is appointed coroner of the Admiralty by letters patent, with power to appoint deputies. As to the coroner of the Queen's household, see sec. 29, *ante*.

a schedule is made in pursuance of this Act, be of the same effect as if the schedule had been made in pursuance of this Act, and

50 & 51 Vict.  
c. 71.

(3) This repeal shall not affect—

- (a) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any enactment hereby repealed; or
  - (b) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed; or
  - (c) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; or
  - (d) Any inquest on any death which occurred before the commencement of this Act or an inquisition found thereon, or any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such inquest, investigation, legal proceeding, and remedy, and the trial of any such inquisition may be carried on as if this Act had not passed.
- (4) This repeal shall not revive any jurisdiction, office, duty, fee, franchise, liberty, custom, right, title, privilege, restriction, exemption, usage, practice, procedure, or other matter or thing not in force or existing at the passing of this Act.
- (5) Save in so far as is inconsistent with this Act, any principle or rule of law, or established jurisdiction, practice, or procedure, or existing usage, franchise, liberty, or custom, shall, notwithstanding the repeal of any enactment by this Act, remain in full force.

#### FIRST SCHEDULE.

##### RULES FOR ELECTION OF CORONER.

[*Repealed and replaced by Local Government Act, 1888, sec. 5, ante, vol. i.*]

#### SECOND SCHEDULE.

##### FORMS.

[*Form of declaration of Office of Coroner.*]

\* \* \* \* \*

[*Form of Oath of Jury.*]

\* \* \* \* \*

[*Form of Inquisition.*]

\* \* \* \* \*

[*Form of Recognizance.*]

\* \* \* \* \*

#### THIRD SCHEDULE.

[*Acts repealed.*]

\* \* \* \* \*

#### CORONERS ACT, 1892.

**55 & 56 Vict. c. 56.** An Act to amend the Law in relation to the Appointment of Coroners and Deputy Coroners in Counties and Boroughs. [28th June, 1892]

**1.**—(1) Every coroner, whether for a county or a borough, shall appoint, by writing under his hand, a fit person approved by the chairman or mayor, as the case may be, of the council who appointed the coroner, not being an alderman or councillor of such council, to be his deputy, and may revoke such appointment, but such revocation shall not take effect until the appointment of another deputy has been approved as aforesaid.

Appointment and powers of a deputy coroner of both a county and a borough.

55 & 56 Vict.  
c. 56.

(2) A duplicate of every appointment shall be sent to the said council and be kept among the records of the county or borough, as the case may be.

(3) A deputy may act for the coroner during his illness or during his absence for any lawful or reasonable cause, or at any inquest which the coroner is disqualified for holding, but not otherwise. In the case of a borough coroner the necessity of his so acting shall be certified on each occasion by a justice of the peace, and such certificate shall state the cause of absence of the coroner, be openly read to every inquest jury summoned by the deputy coroner, and be conclusive evidence of the jurisdiction of the deputy to act.

(4) The deputy of a coroner shall, notwithstanding the coroner vacates his office by death or otherwise, continue in office until a new deputy is appointed, and shall act as the coroner while the office is so vacant in like manner as during the illness of the coroner, and one certificate may extend to the period of the vacancy, and he shall be entitled to receive in respect of the period of the vacancy the like remuneration as the vacating coroner.

50 & 51 Vict.  
c. 71.

(5) For the purpose of an inquest or act which a deputy of a coroner is authorised to hold or do, he shall be deemed to be that coroner, and have the same jurisdiction and powers and be subject to the same obligations, liabilities, and disqualifications as that coroner, and he shall generally be subject to the provisions of the Coroners Act, 1887, and to the law relating to coroners in like manner as that coroner.

(6) A council may postpone the appointment of a coroner to fill a vacancy, either generally or in any particular case, for a period not exceeding three months from the date at which that vacancy occurs.

51 & 52 Vict.  
c. 41.

(7) For the purposes of this section the council who appointed a coroner shall—

(a) Where the coroner was, in pursuance of any section of the Local Government Act, 1888, appointed by or on the recommendation of a joint committee, be deemed to be any of the councils who appointed any members of that committee; and

(b) Where a coroner for a district of a county is, in pursuance of sub-section four of section thirty-four of the Local Government Act, 1888, appointed by the council of any county borough, be deemed to be that council.

(8) In the case of a county coroner who has been elected before the date on which the provisions of the Local Government Act, 1888, as to the appointment of coroners came into force, the council of any county or county borough, in which the district of the coroner is wholly or partially situated, shall for the purposes of this section be deemed to be the council who appointed the coroner.

## 2. [*Repeal of Acts in schedule.*]

Construction  
of Act and  
short title.

3. This Act shall be construed as one with the Coroners Act, 1887, and this Act and that Act may be cited together as the Coroners Acts, 1887 and 1892, and this Act may be cited separately as the Coroners Act, 1892.

## SCHEDULE.

[*Enactments repealed.*]



## COUNTY ELECTORS.

## COUNTY ELECTORS ACT, 1888.

**51 Vict. c. 10.** An Act to provide for the Qualification and Registration of Electors for the purposes of Local Government in England and Wales.

[16th May, 1888

[*Preamble.*]

1. This Act may be cited as the County Electors Act, 1888.

The Registration Act, 1885, and the Parliamentary Registration Acts within the meaning of that Act (*a*), are in this Act referred to as the Registration of Electors Acts, and together with this Act may be cited as the Registration of Electors Acts, 1843 to 1888.

This Act shall be construed as one with the Registration of Electors Acts.

2.—(1) For the purpose of the election of county authorities in England, the burgess qualification, that is to say, the qualification enacted by section nine of the Municipal Corporations Act, 1882 (*b*), shall extend to every part of a county not within the limits of a borough, and a person possessing in any part of a county outside the limits of a borough such burgess qualification, shall be entitled to be registered under this Act as a county elector in the parish (*c*) in which the qualifying property is situate.

(2) Sections nine, thirty-one, thirty-three, and sixty-three of the Municipal Corporations Act, 1882 (*b*), and any enactments of that or any other Act affecting the same, shall extend to so much of every county as is not comprised within the limits of a municipal borough in like manner as if they were herein re-enacted, with the substitution of "county" for "borough" and of "county elector" for "burgess," and with the other necessary modifications.

3. Every person who is entitled to be registered as a voter in respect of a ten pounds occupation qualification within the meaning of the provisions of the Registration Act, 1885, which are set out in the schedule to this Act, shall be entitled to be registered as a county elector, and to be enrolled as a burgess, in respect of such qualification, in like manner in all respects as if the sections of the Municipal Corporations Act, 1882 (*b*), relating to a burgess qualification included the said ten pounds occupation qualification.

4.—(1) The Registration of Electors Acts shall, so far as circumstances admit, apply to (*d*) . . . the registration of county electors within the meaning of this Act; and the lists of (*d*) . . . county electors, and of occupation voters (*e*) for parliamentary elections, shall, so far as practicable, be made out and revised together; and the Registration of Electors Acts shall accordingly—

(*d*) \* \* \* \* \*

(*a*) **Registration Acts.**—Section 19 of the Registration Act, 1885, defines the expression "Parly. Registrat. Acts" to mean "the Parly. Registration Act, 1843, and the Parly. and Mun. Registrat. Act, 1878, inclusive of any Acts and enactments amending the said Acts, or otherwise relating to revising barristers, or to the registration of voters, and of any Acts and enactments relating to rating in so far as they are auxiliary to or deal with the registration of voters." To these must be added the Registration of Electors Act, 1891. See note to sec. 8, *post*.

(*b*) **Mun. Corp. Act, 1882.**—*Ante*, vol. i.

(*c*) **Parish** is defined by the Parly. and Mun. Regn. Act, 1878, sec. 4, to mean a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed.

(*d*) **Section 4.**—The words omitted from this section apply only to places beyond the Metropolis.

(*e*) **Occupation voter.**—This expression, as regards a parliamentary borough, means a person entitled to vote in respect of any qualification conferred by sec. 5 of the Representation of the People Act, 1884 (*i.e.*, possessing a ten pounds occupation qualification), or in respect of a household, or a lodger qualification, as defined by that Act. Registration Act, 1885 (48 Vict. c. 15), sec. 19.

Short title and construction.

48 & 49 Vict. c. 15.

Extension of burgess franchise to county electors outside municipal boroughs.

45 & 46 Vict. c. 50.

Occupation of land of the value of 10*l*. to qualify.

Registration of county electors.

41 & 42 Vict. c. 26.

51 Vict. c. 10.

- (b) apply to every parish not situate in a municipal borough, in like manner as if such parish were a municipal borough to which the Parliamentary and Municipal Registration Act, 1878, applies, and the said lists of county electors and of occupation voters for parliamentary elections in such parish shall be made out in divisions, as provided in the said Act (f): Provided that a person whose name appears in any list of county electors or burgesses in a county may object to the name of any other person on a list of county electors or burgesses for a parish in that county, and may oppose the claim of a person to have his name inscribed in any such list.
- (2) In the construction of the Registration of Electors Acts for the purpose of their application to a parish not situate in a municipal borough, there shall be made the variations following, and such other variations as may be necessary for carrying into effect the application, that is to say:—
- (g) \* \* \* \* \*
- (c) County elector shall be substituted for burgess;
- (d) Section nine of the Parliamentary and Municipal Registration Act, 1878, shall not apply to any parish which is not wholly situate in an urban district (h);
- (e) . . . the list and register of voters shall be made out alphabetically (i) but shall be framed in parts (k) for polling districts and electoral divisions . . . in such a manner that the parts may be conveniently compiled or put together to serve as lists for polling districts . . . and as electoral division . . . lists;
- (f) Where such parish is within a parliamentary borough—
- (i) the overseers shall send to the *clerk of the peace* (l) for the county two copies of the lists of voters at the same time at which they send copies to the *town clerk* (m); and
- (ii) the *town clerk* (m) shall cause to be printed such number of copies of the revised lists as the *clerk of the peace* (l) may require, and shall transmit the same to the *clerk of the peace* (l), who shall deal with the same as with other lists of county electors in his county; but,
- (iii) save as aforesaid, the *clerk of the peace* (l) shall not act in relation to the registration of county electors in the said parish, and the *town clerk* (m) of the parliamentary borough (n) shall be the *town clerk* (m) within the meaning of the Registration of Electors Acts and this Act in relation to such parish, and shall include in his precept to the overseers proper directions respecting the registration of the county electors within the meaning of this Act.
- (g) The lists of occupation voters and county electors shall be revised by the revising barrister for the parliamentary borough or county in which such

(f) **Made out in divisions.**—The occupiers' list is made out in three divisions. Division 1 comprises the names of the persons entitled to be registered as both parliamentary and county electors, in respect of a ten pounds occupation or household qualification. Division 2 comprises the names of the persons entitled to be registered as parliamentary electors, in respect of the same qualification, but not as county electors. Division 3 comprises the names of the persons entitled to be registered as county electors, in respect of the same qualification, but not as parliamentary electors. Parly. and Mun. Regn. Act, 1878, (sec. 15 (2)); Registration Order, 1895, third schedule.

(g) **Section 4.**—See note (d) on p. 763.

(h) **Urban district** means urban sanitary district. Sec. 14, *post*.

(i) **Alphabetically.**—The lists and registers of voters in the Metropolis are made out in successive street order, unless the local authority otherwise direct. Sec. 5, *post*.

(k) **Framed in parts.**—The provisions of this section with respect to the framing of the lists and register of voters in parts are extended to parishes situate within a parliamentary borough by the Local Government Act, 1888, sec. 76 (i.) *ante*, vol. i.

(l) **Clerk of the peace.**—Substitute "clerk of the county council." Sec. 14, *post*.

(m) **Town clerk.**—For "town clerk" read, in regard to the City of London, the secondaries of the city; in regard to the city of Westminster and the borough of Southwark, the high bailiff; Parly. Regn. Act, 1843 (6 Vict. c. 18), sec. 56; and in regard to the remaining metropolitan boroughs the returning officer or such person as he may appoint, *ib.* sec. 101.

(n) **Parliamentary borough** means any borough, city, county of a city, county of a town, place, or combination of places returning a member or members to serve in Parliament, and not being a county at large, or riding, part, or division of a county at large. Parly. and Mun. Regn. Act, 1878 (41 & 42 Vict. c. 26), sec. 4.

parish is situate, and the revising barrister for revising the county electors lists for the whole or any part of an electoral division of any county shall, if so required by the county council, hold a court in that electoral division or at some convenient place in a division adjoining thereto.

51 Vict. c. 10.

(h) The guardians of a union which is not wholly comprised in an urban district (o) may, with the consent of the overseers of any parish or parishes within their union for which an assistant overseer has not been appointed, annually appoint a fit person to act as registration officer for such parish or parishes, and may remove any such person, and fill up any vacancy caused by death, resignation, or otherwise. Such registration officer shall perform all the duties of overseers of the parish or parishes for which he is appointed in respect of the registration of county electors and parliamentary voters, and the provisions of the Registration of Electors Acts relating to overseers, including those providing for penalties, shall apply to him accordingly:

Provided that his remuneration shall be fixed and paid by the guardians of the union, and charged on the poor rates of the parish or parishes for which he is appointed, and (if he acts for more than one parish) in proportion to the number of persons on the registers made during the year of his appointment of county electors and parliamentary voters for each parish.

5. After the year one thousand eight hundred and eighty-eight, in every part of the Metropolis, and in every part of a parliamentary borough, the whole or greater part of which is situate in the Metropolis (p) the lists and registers of parliamentary voters, and of county electors, shall, unless the local authority otherwise direct, be arranged in the same order in which the qualifying premises appear in the rate book for the parish in which those premises are situate, or as nearly thereto as will cause those lists and registers to record the qualifying premises in successive order in the street or other place in which they are situate.

Making out of lists and registers in Metropolis.

For the purpose of this section "Metropolis" means the City of London and the parishes and places mentioned in Schedules A., B., and C. of the Metropolis Management Act, 1855 (q).

18 & 19 Vict. c. 120.

6.—(1) The lists of parliamentary voters, and of burgesses, and of county electors, shall be revised between the eighth day of September and the twelfth day of October both inclusive, and shall be revised as soon as possible after the seventh day of September, and the eighth day of September shall be substituted in the Acts relating to the registration of parliamentary voters for the fifteenth day of September; and the declarations under section ten of the County Voters Registration Act, 1865, and section twenty-four of the Parliamentary and Municipal Registration Act, 1878 (r), shall be sent to the clerk of the peace (s) or town clerk (t) on or before the fifth day of September.

Revision of electoral lists.

(2) In sections sixty-two and sixty-three of the Parliamentary Voters Registration Act, 1843 (relating to appeals from the revising barristers in England) (u) "the Michaelmas sittings of the High Court of Justice," (x) shall be substituted for "the Michaelmas term," and forthwith after the fourth day of the Michaelmas sittings a court or courts shall sit for the purpose of hearing such appeals, and those appeals shall be heard and determined continuously and without delay,

28 & 29 Vict. c. 36.

41 & 42 Vict. c. 26.

6 & 7 Vict. c. 18.

(n) **Urban district.**—See note (h) on p. 764.

(p) **Parliamentary boroughs in Metropolis.**—No parliamentary borough is situate partly within and partly without the Metropolis.

(q) **Metrop. Mant. Act, 1855,** *ante*, vol. i.

(r) **Declarations.**—The declarations here referred to are made by persons for the purpose of correcting any misdescription of their name, place of abode, &c. on the lists of voters.

(s) **Clerk of the Peace.**—Now the clerk of the county council. Sec. 14, *post*.

(t) **Town clerk.**—See note to sec. 4 (2) (f), *ante*.

(u) **Appeals from revising barristers** are made to the Divisional Court of the Queen's Bench Division. Rules of the Supreme Court, 1883, Order lix., rule i. (b). No appeal lies from the decision of the Divisional Court without the special leave of that court; and if such leave is granted the decision of the Court of Appeal is final and conclusive. Supreme Court of Judicature Act, 1881 (44 & 45 Vict. c. 68), sec. 14.

(x) **The Michaelmas sittings** of the High Court commence on the 24th October in each year. Order in Council dated 12th December, 1883, made under the Judicature Act, 1873 (36 & 37 Vict. c. 36), sec. 27.



51 Vict. c. 10

and any statement by the barrister for the purpose of any such appeal made in pursuance of section forty-two of the said Act (*y*) may be made at any time within ten days after the conclusion of the revision, so that it be made not less than four days before the first day of the said Michaelmas sittings, and the statement need not be read in open court, but shall be submitted to the appellant, who, if he approves the same, shall sign the same as directed by the said section, and return the same to the barrister.

Roll of county electors.

7.—(1) The *clerk of the peace* (*z*) of every county shall make up a register of all persons registered as . . . county electors in the county, both for the county and for each electoral division into which the county is divided for the purpose of election of the county authority (*a*) . . .

45 &amp; 46 Vict. c. 50.

(2) The Registration of Electors Acts, and sections forty-five, forty-eight, and seventy-one of the Municipal Corporations Act, 1882 (*b*), shall apply, for the purposes of this section, with the substitution of *clerk of the peace* (*z*) for town clerk, and of county register and division register for Burgess roll and ward roll respectively, and of electoral division for ward, and of county fund for borough fund.

\* \* \* \* \*

48 &amp; 49 Vict. c. 15.

(4) Provided that nothing in this section shall prevent a county elector from being registered in more than one division register (*c*).

(5) Where in pursuance of section four of the Registration Act, 1885, the revising barrister has power to erase the name of any person as a parliamentary voter (*d*) from division one of the occupiers' list, such barrister, in lieu of erasing the name, shall place an asterisk or other mark against the name, and, in printing such lists, the name shall be numbered consecutively with the other names, but an asterisk or other mark shall be printed against the name, and a person against whose name such asterisk or other mark is placed shall not be entitled to vote in respect of such entry at a parliamentary election, but shall have the same right of voting at an election of a county authority as he would have if no such mark were placed against his name.

\* \* \* \* \*

Expenses.

8.—(1) All expenses properly incurred and all sums received in carrying into effect the provisions of this Act and the Registration of Electors Acts with respect to county electors—

(a) if incurred or received by overseers, shall be respectively paid and applied as expenses and receipts of overseers under the Registration of Electors Acts in the case of the lists of parliamentary voters; (*e*) and

(*y*) **Statement by revising barrister.**—By section 42 of the Parly. Voters Reg. Act, 1843, upon an appeal from his decision, the revising barrister is required to prepare a statement of the facts which have been established by evidence, and which are material to the matter in question, and also of his decision upon the whole case, and upon the point of law appealed against.

(*z*) **Clerk of the peace.**—See note (*f*) on p. 767.

(*a*) **County authority**, i.e., the county council. See sec. 11, *post*. The words omitted from this section do not apply to London.

(*b*) **Mun. Corp. Act, 1882**, *ante*, vol. i.

(*c*) **Registered in more than one division.**—Though a county elector may be registered in more than one division register, he is not entitled to vote in more than one electoral division of the same county at the same election. *Knill v. Towse*, 24 Q. B. D. 697; 59 L. J. Q. B. 455 (C.A.).

(*d*) **Erasure of name.**—Section 4 (9) of the Registration Act, 1885, provides rules directing the revising barrister to strike out one of the entries where the name of a person appears to be entered more than once as a parliamentary voter on the lists of voters for the same parliamentary county. Instead of placing the above asterisk or mark against the name, or erasing the name, the revising barrister is now required to place against the name, if the person is entitled to vote in respect of that entry as a county elector, a mark signifying that his name should be printed in division 3 of the list, or, if he is entitled to vote only as a parochial elector, a mark signifying that he is entitled to be registered as a parochial elector. Local Government Act, 1894, sec. 44 (6), *ante*, vol. i.

(*e*) **Expenses of registration.**—"Where a parish is situate in a parliamentary but not in a municipal borough one half of the expenses and receipts under the Registration Acts, 1843 to 1888, in respect of such parish shall, as from the passing of the County Electors Act, 1888, be defrayed out of and paid to the county fund, and the other half of such expenses shall be defrayed out of and paid to the rate raised in such

b) if incurred or received by the *clerk of the peace* (f) or town clerk (g), shall be paid out of or into the county or borough fund; and such expenses shall include all proper and reasonable fees and charges made and charged by him for the trouble, care, and attention of such clerk in the performance of the services and duties imposed on him by the said provisions (e).

51 Vict. c. 10.

9. Every barrister appointed to revise any list of voters under the Parliamentary Voters Registration Act, 1843, shall be paid the sum of two hundred and fifty guineas by way of remuneration to him, and in satisfaction of his travelling and other expenses, and every such barrister, after the termination of his last sitting, shall forward his appointment to the Commissioners of Her Majesty's Treasury, who shall make an order for the payment of the above sum to every such barrister.

Remuneration of revising barristers and contribution by county authorities.

The maximum amount to be paid to an additional barrister in pursuance of the Revising Barristers Act, 1886 (i), shall not exceed the amount authorised by this section to be paid to a revising barrister.

49 & 50 Vict. c. 42.

The sums so paid to a revising barrister or an assistant barrister shall be payable partly out of moneys provided by Parliament and partly by the county authorities (k), as herein-after mentioned.

(1) There shall be annually paid by the county authority of every county out of the county fund into Her Majesty's Exchequer, such sum as the Treasury certify to be one half of the cost incurred for the payment of revising barristers at the then last revision of the lists of parliamentary electors, burgesses, and county electors in that county.

(2) The Treasury shall yearly ascertain the total cost of the revising barristers appointed for all the counties and boroughs on any circuit, and shall divide one half of such cost among the counties comprised in such circuit in proportion to the number of burgesses and county electors in each county, and certify the amount which under such apportionment is due under this section from each county (l). The Treasury may vary such certificate if they think fit, but unless it is so varied the certificate shall be final.

\* \* \* \* \*

10.—(1) Section four of the Revising Barristers Act, 1886, is hereby repealed, and that Act, as amended by this Act, shall be perpetual.

Perpetuation of 49 & 50 Vict. c. 42.

(2) So long as a separate commission of assize is issued for the county of Surrey, that county shall be deemed to be a circuit within the meaning of section two, as well as of section one of Revising Barristers Act, 1886.

Repeal of 6 & 7 Vict. c. 18, s. 59.

(3) An application to appoint an additional barrister under the said Act may be made at any time after the first day of September.

(4) Section fifty-nine of the Parliamentary Voters Registration Act, 1843, is hereby repealed.

11.—(1) In the event of a county authority being established under any Act of the present session, the provisions of this Act with respect to county authority,

Application of provisions of Act respecting county fund.

parish for the relief of the poor. The revising barrister shall, as part of the business of the revision, if necessary, determine what expenses and receipts are incurred or arise, or have been incurred or have arisen under the said Acts in respect of such parish." Registration of Electors Act, 1891 (54 Vict. c. 18), sec. 2. For further provisions as to the payment and application of the expenses and receipts of the overseers, clerk of the peace, and town clerk under the Registration of Electors Acts, see the Parly. Regn. Act, 1843 (6 Vict. c. 18), secs. 53, 54, 55, and 57; the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), sec. 31; the Parly. Electors Regn. Act, 1868 (31 & 32 Vict. c. 28), secs. 31 & 32; the Parly. and Mun. Regn. Act, 1878 (41 & 42 Vict. c. 26), sec. 30; and the Registration Act, 1885 (48 Vict. c. 15), sec. 8.

(f) *Clerk of the peace*.—Now the clerk of the county council, sec. 14, *post*.

(g) *Town clerk*.—See note to sec. 4 (2) (f), *ante*.

(i) *Additional revising barrister*.—The amount to be paid to every additional revising barrister in pursuance of the Revising Barristers Act, 1886, is five guineas a day, together with three guineas a day for expenses, *ib.* sec. 2 (2).

(k) *County authorities*, i.e., the county councils, sec. 11 (1), *post*.

(l) *Apportionment of cost of revising barristers*.—See the Loc. Govt. Act, 1888, section 76 (4), *ante*, vol. i.

51 Vict. c. 10. county, and county fund shall refer to the said county authority and to the county and county fund of such authority (*n*). . . .

12. [Separate list to be made of persons occupying property in a county, and residing within fifteen miles, but more than seven miles from the county. Superseded as to London by the Loc. Gov. Act, 1888, sec. 77, ante, vol. i.]

Precepts by clerk of the peace.

13. All precepts, notices, and forms required for the purposes of the Registration of Electors Acts shall be altered in such manner as may be declared by Her Majesty in Council to be necessary for carrying into effect this Act, and clerks of the peace (*n*) and town clerks (*o*) shall alter their precepts and forms accordingly (*p*). . . .

Definitions.

14. In this Act, unless the context otherwise requires—

The expressions “urban district” and “rural district” respectively mean an urban or rural sanitary district (*q*). . . .

The expression “clerk of the peace” means, in the event of the establishment of a county authority, the person acting as clerk of that authority, and such person shall act as clerk of the peace throughout the whole county of such authority, both for the purposes of this Act and of the Registration of Electors Acts; subject nevertheless—

(a) to the provisions of the Registration Act, 1885, respecting the case of any parliamentary county extending into more county quarter sessional areas than one, and

(b) to the proviso that where at the passing of this Act any clerk of the peace acts as clerk of the peace under the Registration of Electors Acts he shall continue so to act, but shall act as deputy of the person acting as clerk of the peace by virtue of this Act.

15. [Transitory provisions as to the year 1888. Spent.]

#### SCHEDULE.

Section 3.

Registration Act, 1885.

#### DEFINITION OF TEN POUNDS OCCUPATION QUALIFICATION.

Ten pounds occupation qualification.

A person entitled to be registered as a voter in respect of a ten pounds occupation qualification in a borough, municipal or parliamentary—

(a) must during the whole twelve months immediately preceding the fifteenth day of July have been an occupier as owner or tenant of some land or tenement in a parish [or township] of the clear yearly value of not less than ten pounds; and

(b) must have resided in or within seven miles (*r*) of the borough during six months immediately preceding the 15th day of July; and

(c) Such person, or some one else must during the said twelve months have been rated to all poor rates made in respect of such land or tenement; and

(d) All sums due in respect of the said land or tenement on account of any poor rate made and allowed during the twelve months immediately preceding the fifth day of January next before the registration, or on account of any

(*m*) **County authority.**—The county council was established as the county authority in the same session by the Loc. Gov. Act, 1888, ante, vol. i. The remainder of this section is inapplicable to London.

(*n*) **Clerk of the peace.**—Now the clerk of the county council, sec. 14.

(*o*) **Town clerk.**—See note to sec. 4 (2) (*f*), ante.

(*p*) **Precepts, notices, and forms.**—These are now prescribed by the Registration Order, 1895. (*Lond. Gaz.* March 19th, 1895.) The remainder of sec. 13 is spent.

(*q*) **Urban or rural sanitary district.**—For the purposes of the Pub. Hlth. Act, 1875, (38 & 39 Vict. c. 55), England, except the Metropolis, consists of urban and rural sanitary districts, *ib.* sec. 5. No portion of the Metropolis is comprised in any such district.

(*r*) **Within seven miles.**—Residence within 15 miles of the county entitles a ten pounds occupier in the administrative county of London to be registered as a county elector. Loc. Govt. Act, 1888, sec. 77, ante, vol. i.



assessed taxes due before the said fifth day of January, must have been paid 51 Vict. c. 10.  
on or before the twentieth day of July.

If two or more persons jointly are such occupiers as above mentioned, and the value of the land or tenement is such as to give ten pounds or more for each occupier, each of such occupiers is entitled to be registered as a voter.

If a person has occupied in the borough different lands or tenements of the requisite value in immediate succession during the said twelve months, he is entitled in respect of the occupation thereof to be registered as a voter in the parish [or township] in which the last occupied land or tenement is situate.

## DESTRUCTIVE INSECTS.

## DESTRUCTIVE INSECTS ACT, 1877.

40 & 41 Vict. c. 68. An Act for preventing the introduction and spreading of Insects destructive to Crops. [14th August, 1877]

(Great Britain.)

Power to Privy Council to make orders for preventing introduction of destructive insects.

1. *The Lords and others of Her Majesty's Most Honourable Privy Council* (a) (in this Act referred to as the Privy Council) may from time to time make such orders as they think expedient for preventing the introduction into Great Britain of the insect designated as *Doryphora decemlineata*, and commonly called the Colorado beetle.

Any such order, if the *Privy Council* (a) think fit, may prohibit or regulate the landing in Great Britain of potatoes, or of the stalks and leaves of potatoes (b), or other vegetable substance, or other article, brought from any place out of Great Britain, the landing whereof may appear to the *Privy Council* (a) likely to introduce the said insect into Great Britain, and may direct or authorise the destruction of any such article, if landed.

If any person lands or attempts to land any article in contravention of any order under this Act, such article shall be liable to be forfeited in like manner as goods the importation whereof is prohibited by the Acts relating to the customs (c) are liable to be forfeited; and the person so offending shall be liable, according to those Acts, to such penalties as are imposed on persons importing or attempting to import goods the importation whereof is prohibited by those Acts.

Power to Privy Council to make orders for preventing spreading of destructive insects.

2. The *Privy Council* (a) may from time to time make such orders as they think expedient for preventing the spreading in Great Britain of the said insect (d).

Any such order may, if the *Privy Council* (a) think fit, direct or authorise the removal or destruction of any crop of potatoes or other crop or substance on which the said insect in any stage of existence is found, or to or by means of which the said insect may appear to the *Privy Council* (a) likely to spread, and the entering on any lands for the purpose of such removal or destruction, or for the purpose of any examination or inquiry authorised by the order, or for any other purpose of the order.

Any such order may, if the *Privy Council* (a) think fit, prohibit the keeping, selling, or exposing or offering for sale, or the keeping of living specimens of the said insect, in any stage of existence, or the distribution in any manner of such specimens (d).

Any such order may impose penalties for offences against the order, not exceeding ten pounds for any offence; and those penalties shall by virtue of this Act be recoverable, with costs, on summary conviction before two justices of the peace, and shall be applied as penalties recovered under the Contagious Diseases (Animals) Act, 1869, are applicable (e).

32 & 33 Vict. c. 96.

(a) **Privy Council.**—The powers of the Privy Council were transferred to the Bd. of Agriculture by the Bd. of Agriculture Act, 1889 (52 & 53 Vict. c. 30), sec. 13.

(b) **Potatoes.**—The landing of potato haulm, leaves, or stalks from the United States of America, Canada, or Germany is prohibited by Order in Council, dated Aug. 14, 1877 (*Lond. Gaz.* Aug. 17, 1877).

(c) **Acts relating to customs, i.e.,** the Customs Consolidation Act, 1876 (39 & 40 Vict. c. 36), as amended by subsequent Acts.

(d) **Preventing spreading of insect.**—The O. in C. cited *supra* requires notice of discovery of the Colorado beetle in any stage to be given to the police, local authority, and Privy Council (now Bd. of Agriculture); and prohibits the keeping or selling of live specimens of the beetle in any stage.

(e) **Penalties.**—The material parts of the Contagious Diseases (Animals) Act, 1869, were repealed by the Contagious Diseases (Animals) Act, 1878, which enacted, sec. 4 (4), that "This Act instead of the Contagious Diseases (Animals) Act, 1869, shall be deemed to be referred to in the Destructive Insects Act, 1877, and that penalties under the provisions of that Act shall be recoverable in manner provided in Part I. of this Act." Penalties under the Contagious Diseases (Animals) Act, 1878, were recoverable

3. Where by any order under this Act the *Privy Council* (*f*) direct or authorise the removal or destruction of any crop, they may direct or authorise the payment by the local authority of compensation for the crop; and the local authority shall pay the same, subject and according to the following provisions:

- (1) In the case of a crop on which the said insect, in any stage of existence, is found, the compensation shall not exceed one half of the value of the crop.
- (2) In every other case the compensation shall not exceed three fourths of the value of the crop.
- (3) The value of the crop shall in each case be taken to be the value which, in ordinary circumstances, the crop would have had at the time of its removal or destruction.
- (4) The local authority may, if they think fit, require the value of the crop to be ascertained by their officers or by arbitration.
- (5) The local authority may, if they think fit, withhold compensation if, in relation to the crop, the owner or the person having charge thereof, has, in their judgment, done anything in contravention of, or failed to do anything in compliance with, any order under this Act.

40 & 41 Vict.  
c. 68.

Compensation  
for crops.

4. The local authorities under the Contagious Diseases (Animals) Act, 1869, with their respective districts, local rates, clerks, and committees, shall be in like manner local authorities for the purposes of this Act (*g*).

Local  
authorities.

The *Privy Council* (*f*) may, if they think fit, require a local authority to carry into effect any order of the *Privy Council* (*f*) under this Act.

The expenses incurred and compensation paid by a local authority in pursuance of any order under this Act shall be paid by them out of the local rate.

Every local authority shall keep, in such manner and form as the *Privy Council* (*f*) from time to time by order direct, a record relative to the proceedings in pursuance of any order under this Act, stating the date of the removal or destruction of any crop or substance, and other proper particulars, which record shall be admitted in evidence.

5. Every order of the *Privy Council* (*f*) under this Act shall be published, if it relates to England, in the *London Gazette*, and if it relates to Scotland, in the *Edinburgh Gazette*; save that, where the order affects only specified lands, the insertion in the *London* or *Edinburgh Gazette* (as the case may require) of a notice of the making of the order shall be sufficient.

Publication  
of orders of  
Council.

Any order of the *Privy Council* under this Act shall be published by any local authority, to whom it is sent by the *Privy Council* (*f*) for publication, in such manner as the *Privy Council* (*f*) direct, and subject to, or in the absence of, any such direction, in such manner as the local authority think sufficient and proper to ensure publicity.

6. [*Rep. by Bd. of Agriculture Act, 1889 (52 & 53, Vict. c. 30), sec. 13.*]

7. [*Application of Act to Ireland.*]

summarily, subject to an appeal to quarter sessions, *ib.* secs. 63 and 64. And "notwithstanding anything in any Act relating to the metropolitan police, or in any other Act, such part not exceeding one half of every penalty or forfeiture recovered under this Act . . . as the court of summary jurisdiction before which it is recovered thinks fit, shall be paid to the person who proceeds for the same, and the residue thereof shall be applied as if this section had not been passed. *Ib.* sec. 66 (8). The Contagious Diseases (Animals) Act, 1878, is now repealed and superseded by the Diseases of Animals Act, 1894, *post*, but this repeal does not apparently affect the above provisions of the Act of 1878 with respect to the Destructive Insects Act.

(*f*) *Privy Council*.—Now the Board of Agriculture. See note to sec. 1, *supra*.

(*g*) *Local authorities*.—For the Contagious Diseases (Animals) Act, 1869, substitute the Contagious Diseases (Animals) Act, 1878. See *note, supra*. Under the latter Act the corporation was the local authority in the City, and their expenses were defrayed out of their consolidated rate; and the Met. Bd. Works was the local authority in the Metropolis, their expenses being defrayed out of the metropolitan consolidated rate. *Ib.* sec. 9 and 2nd sched. The powers of the Met. Bd. Works are transferred by the Loc. Govt. Act, 1888, sec. 3 (xiii.), *ante*, vol. i., to the County Council, whose expenses under the present Act are defrayed out of the general county rate. *Ib.* sec. 40 (9) and 68 (2).



40 & 41 Vict.  
c. 68.

Orders to be  
laid before  
Houses of  
Parliament.  
Expenses of  
Act.

Short title.

*General.*

8. Every order under this Act shall be laid before both Houses of Parliament within ten days after the making thereof, if Parliament is then sitting, and if not, then within ten days after the next meeting of Parliament.

9. The expenses of the execution of this Act, other than expenses and compensation paid by local authorities, shall be paid out of money to be provided by Parliament.

10. This Act may be cited as The Destructive Insects Act, 1877.

**DISEASES OF ANIMALS.**

**57 & 58 Vict. c. 57** (" Diseases of Animals Act, 1894 ").....page 773  
 59 & 60 Vict. c. 15 (" Diseases of Animals Act, 1896. ").

**DISEASES OF ANIMALS ACT, 1894.**

**57 & 58 Vict. c. 57.** An Act to consolidate the Contagious Diseases (Animals) Acts, 1878 to 1893. [25th August, 1894]

*Central and Local Authorities.*

**1.** The powers and duties conferred and imposed by this Act on the Board of Agriculture as regards England and Wales and Scotland shall be executed and discharged by the Board in manner provided by the Board of Agriculture Act, 1889, and this Act.

**2.** The local authorities in this Act described shall execute and enforce this Act and every order of the Board of Agriculture so far as the same are to be executed or enforced by local authorities.

**3.** The local authorities in England and Wales shall be—

(i) for each borough not being a borough to which section thirty-nine of the Local Government Act, 1888, applies, the borough council;

(ii) for the residue of each administrative county, the county council.

Provided that the mayor and commonalty and citizens of the City of London, acting by the mayor, aldermen, and commons of that City in common council assembled, shall be the local authority for the City of London, and shall be the local authority in and for the county of London for the purpose of the provisions of this Act relating to foreign animals.

*Separation of Diseased Animals and Notice to Police.*

**4.—(1)** Every person having in his possession or under his charge an animal affected with disease shall—

(a) as far as practicable keep that animal separate from animals not so affected; and

(b) with all practicable speed give notice of the fact of the animal being so affected to a constable of the police force for the police area wherein the animal so affected is.

(2) The constable to whom notice is given shall forthwith give information thereof to such person or authority as the Board of Agriculture by general order direct.

(3) The Board may make such orders as they think fit for prescribing and regulating the notice to be given to or by any person or authority in case of any particular disease or in case of the illness of an animal, and for supplementing or varying for those purposes any of the provisions of this section.

*Cattle Plague.*

**5.—(1)** Where it appears to an inspector that cattle plague exists, or has within ten days existed, in a cowshed, field, or other place, he shall forthwith make and sign a declaration thereof.

(2) He shall serve a notice, signed by him, of that declaration on the occupier of that cowshed, field, or other place.

(3) Thereupon that cowshed, field, or other place, with all lands and buildings contiguous thereto in the same occupation, shall become and be a place infected with cattle plague, subject to the determination and declaration of the Board of Agriculture.

(4) The inspector shall serve a like notice, signed by him, unless in the circumstances this appears to him not to be expedient, on the occupiers of all lands and buildings, any part whereof lies, in his judgment, within one mile in any direction from that cowshed, field, or other place, or on the occupiers of any of those lands and buildings.

(5) Thereupon all the lands and buildings aforesaid, on the occupiers whereof the inspector serves such a notice, shall become and be part of the place infected with cattle plague, subject to the determination and declaration of the Board.

(6) The inspector shall, with all practicable speed, inform the Board and the

Powers of Board of Agriculture in England, Wales, and Scotland.

52 & 53 Vict. c. 30.

Local authorities to execute Act.

Local authorities in England and Wales.

51 & 52 Vict. c. 41.

Separation of diseased animals, and notice to constable.

Cattle plague infected place.

57 & 58 Vict.  
c. 57.

local authority of his declaration and notices, and shall send to the Board his declaration and a copy of his secondly-mentioned notice (if any).

(7) The Board shall forthwith on receipt of the information inquire into the correctness of the inspector's declaration.

(8) If the Board are satisfied of the correctness of that declaration as regards the existence or past existence of cattle plague, they shall by order determine and declare accordingly, and prescribe the limits of the place infected with cattle plague.

(9) If the Board are not satisfied of the correctness of the inspector's declaration as regards the existence or past existence of cattle plague, they shall by order determine and declare accordingly; and thereupon, as from the time specified in the order, the place comprised in the inspector's declaration and notices shall cease to be a place infected with cattle plague.

(10) The Board may at any time, if they think fit, on any evidence satisfactory to them, by order—

(a) declare any cowshed, field, or other place with or without any lands or buildings adjoining or near thereto, to be a place infected with cattle plague; or

(b) extend, contract, or otherwise alter the limits of a place infected with cattle plague; or

(c) declare a place infected with cattle plague or any part thereof to be free from cattle plague.

6. *[Power to Board of Agriculture to declare an area to be an area infected with cattle plague.]*

7. *[Slaughter by Board of Agriculture in cattle plague, and compensation out of money provided by Parliament.]*

#### *Infected Places, Areas, and Circles for Diseases generally.*

Pleuro-  
pneumonia or  
foot-and-  
mouth disease  
infected place.

8. (1) Where it appears to an inspector of a local authority that pleuro-pneumonia or foot-and-mouth disease exists, or has within the period hereinafter mentioned existed in a shed, field, or other place, he shall forthwith make and sign a declaration thereof. For the purposes of this sub-section the period shall be in the case of pleuro-pneumonia fifty-six days, and in the case of foot-and-mouth disease ten days.

(2) The inspector shall serve a notice, signed by him, of the declaration on the occupier of that shed, field, or other place, and in the case of foot-and-mouth disease also on the occupier of any land or buildings contiguous thereto as he may consider necessary.

(3) Thereupon that shed, field, or other place shall become and be a place infected with pleuro-pneumonia or foot-and-mouth disease, as the case may be, subject to the determination and declaration of the local authority.

(4) The inspector shall, with all practicable speed, inform the local authority of his declaration and notice, and shall send his declaration and a copy of his notice to the local authority, and shall, with all practicable speed, inform the Board of Agriculture of his declaration and notice, and send a copy of the same to the Board.

(5) The local authority shall forthwith on receipt of that information inquire into the correctness of the inspector's declaration, with the assistance and advice, in the case of pleuro-pneumonia, and if so required by order of the Board in the case of foot-and-mouth disease, of a veterinary inspector, or of a person qualified according to this Act to be such.

(6) If the local authority are satisfied of the correctness of the inspector's declaration as regards the existence or past existence of pleuro-pneumonia or foot-and-mouth disease, they shall by order determine and declare accordingly, and prescribe the limits of the place infected with pleuro-pneumonia or foot-and-mouth disease, and may, if they think fit, include within those limits any lands or buildings adjoining or near to the shed, field or other place to which the inspector's declaration relates.

(7) The local authority may include in a place infected with pleuro-pneumonia or foot-and-mouth disease any adjoining part of the district of another local authority, with the previous consent in writing of that authority, but not otherwise.

(8) If the local authority are not satisfied of the correctness of the inspector's



declaration as regards the existence or past existence of pleuro-pneumonia or foot-and-mouth disease, they shall by order determine and declare accordingly; and thereupon, as from the time specified in that behalf in the order, the shed, field, or other place to which the inspector's declaration relates, shall cease to be a place infected with pleuro-pneumonia or foot-and-mouth disease, as the case may be.

57 & 58 Vict.  
c. 57.

(9) The local authority shall forthwith report to the Board the declaration of the inspector, and the proceedings of the local authority thereon, and shall state whether or not it is, in their opinion, expedient that an infected area, comprising the infected place, should be declared, and, if so, what should, in their opinion, be the limits of that area, and whether or not there is within that area any place used for the holding of a market, fair, exhibition, or sale of animals or any specified kind thereof, and if so, whether or not it is, in their opinion, expedient that the holding in that area, while infected, of a market, fair, exhibition, or sale of animals, or such kind thereof, should be prohibited or restricted by order of the Board.

(10) This section shall, notwithstanding anything therein contained, be construed and have effect subject to the subsequent section of this Act, whereby the Board are required to make, by order, provision respecting the case of animals found to be affected with pleuro-pneumonia or foot-and-mouth disease while exposed for sale or exhibited in a market, fair, sale-yard, or place of exhibition, and in other circumstances specified in the same section, and generally while being in a place not in the possession or occupation, or under the control, of the owner of the animals.

(11) Where a local authority have declared a place to be infected with pleuro-pneumonia or foot-and-mouth disease, they may, if they think fit, having first obtained the assistance and advice of a veterinary inspector, or of a person qualified according to this Act to be such, at any time after the expiration of the period hereinafter mentioned from the date of the cessation therein of pleuro-pneumonia or foot-and-mouth disease, but not sooner, declare by order that place to be free from pleuro-pneumonia or foot-and-mouth disease. For the purposes of this sub-section the period shall be in the case of pleuro-pneumonia fifty-six days, and in the case of foot-and-mouth disease fourteen days or such longer period not exceeding twenty-eight days as the Board by general order prescribe.

(12) The Board may at any time, if they think fit, on any evidence satisfactory to them, by order—

- (a) declare any shed, field, or other place with or without any lands or buildings adjoining or near thereto, to be a place infected with pleuro-pneumonia or foot-and-mouth disease;
- (b) extend, contract, or otherwise alter the limits of any place infected with pleuro-pneumonia or foot-and-mouth disease declared either by the Board or a local authority; or
- (c) declare any place which has been declared by the Board or a local authority to be a place infected with pleuro-pneumonia or foot-and-mouth disease, to be free from pleuro-pneumonia or foot-and-mouth disease as the case may be.

9. [Power to Board of Agriculture to declare an area to be an area affected with pleuro-pneumonia or foot-and-mouth disease.]

10.—(1) The Board of Agriculture may make such orders (a) as they think fit, subject and according to the provisions of this Act, for prescribing the cases in which places and areas are to be declared to be infected with a disease other than cattle plague, pleuro-pneumonia or foot-and-mouth disease, and the authority, mode, and conditions by, in, and on which declarations in that behalf are to be made, and the effect and consequences thereof, and the duration and discontinuance thereof, and other matters connected therewith.

General provisions as to infected places and areas.

(2) Every place or area so declared infected, as well as a place or area declared infected with cattle plague, pleuro-pneumonia, or foot-and-mouth disease, shall be an infected place or area for the purposes of this Act.

(3) Notwithstanding anything in this Act, where the Board, on inquiry, and after communication with the local authority, but without prejudice to the

(a) **Orders.**—See note to sec. 22, *post*, for a list of the general orders issued by the Board of Agriculture.

57 & 58 Vict.  
c. 57.

powers of the Board as regards cattle plague, are satisfied that a declaration of a place being an infected place has been made in error respecting the existence or past existence of disease, or respecting the limits of a place, or respecting any other matter of fact whereon the declaration preceded, the Board may by order cancel the declaration as regards the infected place, or as regards any part thereof, as they think fit.

(4) Where, in accordance with the provisions of this Act, a place or an area or a portion of an area is declared free from a disease, or a declaration of a place being an infected place is cancelled as regards the place or as regards any part thereof, then, from the time specified in that behalf by the Board or a local authority, as the case may be, the place, or area, or that portion of the area or that part of the place, shall cease to be, or to be in, an infected place or area.

(5) An order of the Board or of a local authority declaring a place to be an infected place or area, or declaring a place or area, or a portion of an area, to be free from disease, or cancelling a declaration, shall be conclusive evidence to all intents of the existence or past existence or cessation of the disease, or of the error, and of any other matter whereon the order proceeds.

Movement into,  
within, or out  
of infected  
places and  
areas in case  
of pleuro-  
pneumonia and  
foot-and-  
mouth disease.  
Provisions as  
to infected  
circles.

11.—(1) Cattle shall not be moved into, within, or out of a place or area infected with pleuro-pneumonia otherwise than in accordance with the conditions contained in Part I. of the first schedule to this Act.

(2) Animals shall not be moved into, within, or out of a place or area infected with foot-and-mouth disease otherwise than in accordance with the conditions contained in Part II. of the first schedule to this Act.

12.—(1) Where the Board of Agriculture by order declare that this section shall apply in the case of any disease, then, upon any place becoming, in pursuance of a declaration made and signed by an inspector of a local authority, a place infected with that disease, the whole space lying within a distance of half a mile from any part of the infected place shall become and be a circle infected with that disease: Provided that the Board may, if they think fit, limit the application of any such order to infected places in any particular district or districts.

(2) Where, under or in pursuance of this Act, the place, in respect of which an infected circle has been constituted in pursuance of this section, ceases to be an infected place, the infected circle shall cease to exist.

(3) The Board may make such orders (b) as they think fit for giving public notice of the existence of, and for contracting, the limits of, and dissolving infected circles, and for prohibiting or regulating the movement of animals into, within, and out of infected circles, or for any of those purposes, or for authorising a local authority to make regulations for those purposes or any of them, subject to such conditions, if any, as the Board think fit to prescribe.

(4) Where two or more circles infected with the same disease adjoin or overlap each other, the whole of the infected circles shall be deemed for the purpose of the movement of animals under any orders or regulations made in pursuance of this section to be one infected circle.

Power to  
exclude  
strangers by  
notice.

13. A person owning or having charge of any animals in a place or area declared infected with any disease may affix, at or near the entrance to a building or inclosure in which the animals are, a notice forbidding persons to enter therein without the permission mentioned in the notice; and thereupon it shall not be lawful for any person, not having by law a right of entry or way into, on, or over that building or enclosure, to enter or go into, on, or over the same without that permission.

*Slaughter by Board of Agriculture in case of pleuro-pneumonia, foot-and-mouth disease, or swine-fever.*

14. [Power to Board of Agriculture to cause to be slaughtered cattle affected with pleuro-pneumonia, and compensate.]

15. [Power to Board of Agriculture to cause to be slaughtered animals affected with foot-and-mouth disease, and compensate.]

16. [Power to Board of Agriculture to cause to be slaughtered swine affected with swine-fever, and compensate.]

17. [Power to Board of Agriculture, to employ additional officers and incur expenses for purposes of slaughter.] 57 & 58 Vict. c. 57.
18. [Pleuro-pneumonia account for Great Britain.]

*Slaughter in Disease, and Compensation generally.*

19. The Board of Agriculture may make such orders (c) as they think fit subject and according to the provisions of this Act for directing or authorising, in case of the existence or suspected existence of any disease other than cattle plague and under such conditions as the Board think fit to prescribe, the slaughter of animals by local authorities, either generally or in particular instances, and in all or any of such cases the payment of compensation for the same by local authorities out of the local rate; and the Board may by such orders direct or authorise the slaughter both of animals actually affected with disease, and also of animals suspected of disease, or being or having been in the same field, shed, or other place, or in the same herd or flock, or otherwise in contact with animals affected with disease, or being or having been otherwise exposed to the infection thereof.

Power for Board of Agriculture to provide for slaughter in diseases other than cattle plague.

20.—(1) The Board of Agriculture may, notwithstanding anything in this Act, reserve for observation and treatment an animal liable to be slaughtered under this Act by order of the Board or of a local authority, but subject to payment of compensation by the Board or the local authority, as the case may be, as in case of actual slaughter.

General provisions relative to slaughter and compensation.

(2) Where an animal has been slaughtered under this Act by order of the Board or of a local authority, the carcase of the animal shall belong to the Board or to the local authority, as the case may be, and shall be buried, or sold, or otherwise disposed of by the Board or the local authority, or as they direct, as the condition of the animal or carcase and other circumstances may require or admit; and any money received by a local authority on any such sale shall be carried by them to the credit of the local rate.

(3) If, in any case, the sum received by the Board or a local authority on sale of a carcase under this section exceeds the amount paid for compensation to the owner of the animal slaughtered, the Board or the local authority, as the case may be, shall pay that excess to the owner, after deducting reasonable expenses.

(4) Where an animal has been slaughtered under this Act by order of the Board or of a local authority, the Board or the local authority, as the case may be, may use for the burial of the carcase any ground in the possession or occupation of the owner of the animal and suitable in that behalf, or any common or uninclosed land, but, as regards the use by a local authority of common or uninclosed land, not without the approval of the Board.

(5) If the owner of an animal slaughtered under this Act by order of the Board or of a local authority has an insurance on the animal, the amount of the compensation awarded to him under this Act may be deducted by the insurers from the amount of the money payable under the insurance before they make any payment in respect thereof.

(6) A local authority shall keep in such manner as the Board by general order direct, a record relative to slaughter, which record shall be admitted in evidence.

(7) Notwithstanding anything in this Act, the Board or a local authority, as the case may be, may, if they think fit, withhold, either wholly or partially, compensation or other payment in respect of an animal slaughtered under this Act by their respective order, where the owner or the person having charge thereof has, in the judgment of the Board or the local authority, as the case may be, been guilty, in relation to the animal, of an offence against this Act, or where the animal, being a foreign animal, was, in their judgment, diseased at the time of its landing.

*Exceptional Powers for Transit, and in other Cases.*

21. [Board of Agriculture to provide by order for pleuro-pneumonia or foot-and-mouth disease during transit, &c.]

(c) Orders.—See note to sec. 22, *post*, for a list of the general orders issued by the Board of Agriculture.



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c. 57.

Power for  
Board of  
Agriculture  
to make orders  
for prevention  
or checking of  
disease, and  
other purposes.

*Disease and Movement generally.*

**22.** The Board of Agriculture may make such orders (*d*) as they think fit, subject and according to the provisions of this Act, for the following purposes, or any of them :

- (i) for prescribing and regulating the publication by placards, handbills, or otherwise, in the immediate neighbourhood of a place or area declared infected, of the fact of such declaration ;
- (ii) for prohibiting or regulating the movement of animals and persons into, within, or out of an infected place or area ;
- (iii) for prescribing and regulating the isolation or separation of animals being in an infected place or area ;
- (iv) for prohibiting or regulating the removal of carcases, fodder, litter, utensils, pens, hurdles, dung, or other things into, within, or out of an infected place or area ;
- (v) for prescribing and regulating the destruction, burial, disposal, or treatment of carcases, fodder, litter, utensils, pens, hurdles, dung, or other things, being in an infected place or area, or removed thereout ;
- (vi) for prescribing and regulating the cleansing and disinfection of infected places and areas, or parts thereof ;
- (vii) for prescribing and regulating the disinfection of the clothes of persons coming in contact with or employed about diseased or suspected animals, or being in an infected place, and the use of precautions against the spreading of disease by such persons ;
- (viii) for prohibiting or regulating the digging up of carcases which have been buried ;
- (ix) for prohibiting or regulating the exposure of diseased or suspected animals in markets or fairs or sale-yards, or other public or private places, where animals are commonly exposed for sale, and the placing thereof in lairs or other places adjacent to or connected with markets or fairs, or where animals are commonly placed before exposure for sale ;
- (x) for prohibiting or regulating the sending or carrying of diseased or suspected animals, or of dung or other thing likely to spread disease, or the causing the same to be sent or carried, on railways, canals, rivers, or inland navigations, or in coasting vessels, or otherwise ;
- (xi) for prohibiting or regulating the carrying, leading, or driving of diseased or suspected animals, or the causing them to be carried, led, or driven on highways or thoroughfares, or elsewhere ;
- (xii) for prohibiting or regulating the placing or keeping of diseased or suspected animals on commons or uninclosed lands, or in fields or other places insufficiently fenced, or on the sides of highways ;

(*d*) **Orders of Board of Agriculture.**—The following General Orders of the Board of Agriculture have been issued and are in force under this Act, viz.:—The Cattle Plague Order, Pleuro-Pneumonia Order, Foot-and-Mouth Diseases Order, Sheep-Pox Order, Sheep Scab Order, and Anthrax Order, of 1895. (*Lond. Gaz.*, Feb. 26, 1895, pp. 1154—1186) ; the Animals (Transit and General) Order of 1895 (*Lond. Gaz.*, March 19, 1895, p. 1678) ; the Swine Fever (Infected Areas) Order of 1896. (*Lond. Gaz.*, April 14, 1896, p. 2258) ; the Swine Fever (Suspected Zones) Order of 1896 (*Lond. Gaz.*, August 25, 1896, p. 4827) ; the Isle of Man Animals Order of 1896 (*Lond. Gaz.*, Dec. 8, 1896, p. 7244) ; the Markets and Fairs (Swine Fever) Order of 1896 (*Lond. Gaz.*, Dec. 15, 1896, p. 7409) ; the Rabies Order of 1897 (*Lond. Gaz.*, March 23, 1897, p. 1678), and the Importation of Dogs Order, 1897, (*Lond. Gaz.*, May 7, 1897, p. 2540). The provisions of the foregoing orders, except where otherwise provided, are required to be executed and enforced by the local authority.

The Board has also issued the following general Orders, viz.:—The Foreign Animals Order, the Channel Islands Animals Order, and the Foreign Animals (Quarantine) Order of 1896 (*Lond. Gaz.*, Dec. 8, 1896, pp. 7235, 7240, and 7246 respectively). The local authority and all constables and police officers are required to assist the inspector of the Board to carry into effect and enforce these orders, and to do or cause to be done all things necessary for the effectual execution of the same.

In addition to the above, the Board has issued the Water Supply on Railways Order of 1895 (*Lond. Gaz.*, March 19, 1895, p. 1683), which, however, does not affect the powers or duties of the local authority. The Board also issues and revokes from time to time temporary and local orders applying the above general orders, or some of them, to particular localities.

- (xiii) for prescribing and regulating the seizure, detention, and disposal of a diseased or suspected animal exposed, carried, kept, or otherwise dealt with in contravention of an order of the Board; and for prescribing and regulating the liability of the owner or consignor or consignee of such animal to the expenses connected with the seizure, detention, and disposal thereof;
- (xiv) for prescribing the mode of ascertainment of the value of an animal slaughtered, or liable to be slaughtered, by order of the Board or of a local authority;
- (xv) for regulating applications for, and the mode of payment of, compensation to be paid out of money provided by Parliament;
- (xvi) for prescribing and regulating the destruction, burial, disposal, or treatment of carcasses of animals slaughtered by order of the Board or of a local authority, or dying while diseased or suspected;
- (xvii) for prohibiting or regulating the movement of animals, and the removal of carcasses, fodder, litter, dung, and other things, and for prescribing and regulating the isolation of animals newly purchased;
- (xviii) for prescribing and regulating the issue and production of licences respecting movement and removal of animals and things;
- (xix) for prohibiting or regulating the holding of markets, fairs, exhibitions, and sales of animals;
- (xx) for prescribing and regulating the cleansing and disinfection of places used for the holding of markets, fairs, exhibitions, or sales of animals, or for lairage of animals, and yards, sheds, stables, and other places used for animals;
- (xxi) for prescribing and regulating the cleansing and disinfection of vessels, vehicles, and pens and other places, used for the carrying of animals for hire or purposes connected therewith;
- (xxii) for prescribing modes of cleansing and disinfection;
- (xxiii) for prohibiting the conveyance of animals by any specified vessel to or from any port in the United Kingdom for such time as the Board may consider expedient;
- (xxiv) for insuring for animals carried by sea a proper supply of food and water and proper ventilation during the passage and on landing;
- (xxv) for protecting them from unnecessary suffering during the passage and on landing;
- (xxvi) for protecting animals from unnecessary suffering during inland transit;
- (xxvii) for securing a proper supply of water and food to animals during any detention thereof;
- (xxviii) for prescribing and regulating the marking of animals;
- (xxix) for prohibiting, absolutely or conditionally, the use, for the carrying of animals or for any purpose connected therewith, of a vessel, vehicle, or pen or other place in respect whereof, or of the use whereof, a penalty has been recovered from any person for an offence against this Act;
- (xxx) for prescribing and regulating the muzzling of dogs, and the keeping of dogs under control;
- (xxxi) for prescribing and regulating the seizure, detention, and disposal (including slaughter) of stray dogs and of dogs not muzzled, and of dogs not being kept under control, and the recovery from the owners of dogs of the expenses incurred in respect of their detention;
- (xxxii) for prescribing and regulating the payment and recovery of expenses in respect of animals;
- (xxxiii) for prescribing and regulating the form and mode of service or delivery of notices and other instruments;
- (xxxiv) for authorising a local authority to make regulations for any of the purposes of this Act or of an order of the Board subject to such conditions (e), if any, as the Board, for the purpose of securing uniformity and the due execution of the provisions of this Act, think fit to prescribe;
- (xxxv) for extending, for all or any of the purposes of this Act, the definition of disease in this Act, so that the same shall for those purposes, or any of them, comprise any disease of animals in addition to the diseases mentioned in this Act;

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c. 57.

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(xxxvi) for extending, for all or any of the purposes of this Act, the definition of animals in this Act, so that the same shall for those purposes or any of them comprise any kind of four-footed beasts, in addition to the animals mentioned in this Act; and  
(xxxvii) generally, for the better execution of this Act, or for the purpose of in any manner preventing the spreading of disease.

**23.** [*Provision of water and food at railway stations to satisfaction of Board of Agriculture.*]

*Foreign Animals.*

**24.** [*Animals in the absence of any order to be slaughtered at port of landing (f).*]

**25.** [*Power to Board of Agriculture to make orders prohibiting importation of animals, carcases, fodder, litter, dung, &c.*]

**26.** [*Orders admitting animals free without being subject to slaughter (f).*]

**27.** [*Power to Board of Agriculture to make orders admitting animals to quarantine.*]

**28.** [*Special provisions as to Channel Islands and Isle of Man.*]

**29.** [*Orders to be laid before Parliament.*]

**30.**—(1) [*Power to Board of Agriculture to make orders for the regulation of ports.*]

(2) Notwithstanding anything in this Act, a defined part of a port, or any part thereof, shall not be declared to be an infected place, or be made part of an infected place, otherwise than by the Board.

(3) Where the district or part of a district of a local authority under this Act is or comprises, or is comprised in, a port or part of a port, the Board may, if they think fit, in relation to that port or part of a port, by order, make any body other than the body constituted the local authority by this Act for such district or part of a district, the local authority for the purposes of the provisions of this Act relating to foreign animals, and, in connexion with the local authority so made, prescribe the local rate, if any, and the clerk of the local authority.

*General Provisions as to Local Authorities.*

Committees  
of local  
authorities.

51 & 52 Vict.  
c. 41.

**31.**—(1) The provisions in the fourth schedule to this Act shall have effect with respect to committees of local authorities, but nothing therein contained shall prejudice or affect the power of a county council to delegate their powers to any committee or body under section twenty-eight of the Local Government Act, 1888 (g).

(2) Provided that the Board of Agriculture, in any order made by them under this Act for authorising a local authority to make regulations (h) may direct that the power to make such regulations for any purpose specified in that behalf in the order shall be exercised only by the local authority or their executive committee, and shall not be deputed to any other committee nor to a sub-committee.

Provision of  
wharves,  
stations,  
lairs, &c.

**32.**—(1) A local authority (i) may provide, erect, and fit up wharves, stations, lairs, sheds, and other places for the landing, reception, keeping, sale, slaughter,

(f) **Slaughter of foreign animals.**—(1) For section twenty-four of the Diseases of Animals Act, 1894, shall be substituted the following section, namely:—

“The provisions set forth in Part 1 (slaughter at port of landing) of the third schedule to this Act shall apply to all foreign animals other than—

(a) foreign animals the landing of which is for the time being prohibited by order of the Board of Agriculture; and

(b) foreign animals intended for exhibition or other exceptional purposes, and the landing of which is allowed for the time being by the Board, subject to the provisions of Part 2 (quarantine) of the third schedule of this Act.”

(2) Section twenty-six of the Diseases of Animals Act, 1894, is hereby repealed. *Diseases of Animals Act, 1896 (59 & 60 Vict. c. 15).*

(g) **Local Government Act, 1888**, sec. 28, *ante*, vol. i. And see *Huth v. Clarke*, cited in note thereto.

(h) **Regulations.**—The Power is conferred by sec. 22 (xxxiv), *ante*, on the Board of Agriculture, to make orders authorising a local authority to make regulations.

(i) **Local authority** is defined by sec. 3, *ante*.



or disposal of foreign or other animals, carcases, fodder, litter, dung, and other things. 57 & 58 Vict. c. 57.

(2) There shall be incorporated with this Act the Markets and Fairs Clauses Act, 1847 (*k*), except sections six to nine and fifty-one to sixty thereof. 10 & 11 Vict. c. 14.

(3) A wharf or other place provided by a local authority under this section shall be a market within that Act; and this Act shall be the special Act; and the prescribed limits shall be the limits of lands acquired or appropriated for purposes of this section; and byelaws shall be approved by the Board of Agriculture, which approval shall be sufficient without any other approval or allowance, notice of application for approval being given, and proposed byelaws being published before application, as required by the Markets and Fairs Clauses Act, 1847 (*k*). 10 & 11 Vict. c. 14.

(4) A local authority may charge for the use of a wharf or other place provided by them under this section such sums as may be imposed by byelaws, and the same shall be deemed tolls authorised by the special Act.

(5) All sums so received by the local authority shall be carried to a separate account, and shall be applied in payment of interest on money borrowed by them under the Contagious Diseases (Animals) Act, 1869, the Contagious Diseases (Animals) Acts, 1878 to 1893, or this Act, and in repayment of the principal thereof, and, subject thereto, towards discharge of their expenses under this Act. 32 & 33 Vict. c. 70.

(6) The local authority shall make such periodical returns to the Board of Agriculture of their expenditure and receipts in respect of the wharf or other place as the Board require.

(7) The Board, if satisfied on inquiry that the tolls taken by the local authority for the wharf or other place may properly be reduced, regard being had to the expenditure and receipts of the local authority in respect thereof, and to any money secured on the tolls, and to the other circumstances of the case, may require the local authority to submit to the Board, for their approval, a new schedule of tolls, and on failure of the local authority to do so to the satisfaction of the Board, may, by order, prescribe such tolls as the Board think fit, in lieu of those before approved by the Board.

(8) The provisions of this section shall apply to a wharf or other place provided by a local authority under the Contagious Diseases (Animals) Act, 1869, or under the Contagious Diseases (Animals) Acts, 1878 to 1893. 32 & 33 Vict. c. 70.

**33.**—(1) A local authority may purchase, or may by agreement take on lease or at a rent, land for wharves or other places, or for use for burial of carcases, in cases where there is not any ground suitable in that behalf in the possession or occupation of the owner of the animal, or any common or uninclosed land suitable and approved by the Board of Agriculture in that behalf, or for any other purpose of this Act. Power for local authority to acquire land.

(2) The local authority may (subject to any agreement) dispose of lands so acquired but not required for the purposes of this Act, carrying the money produced thereby to the credit of the local rate.

(3) The regulations contained in section one hundred and seventy-six of the Public Health Act, 1875 (*l*), shall be observed with respect to the purchase of land by a local authority for purposes of this Act, as if the local authority were a local board, and purposes of this Act were purposes of that Act; provided that the requisite advertisements and notices may be published and served in any two consecutive months, and that the local rate shall be substituted for the rates therein mentioned. 38 & 39 Vict. c. 55.

(4) The powers conferred by this section may be exercised by a local authority with respect to land within or without their district.

(*k*) **Markets and Fairs Clauses Act, 1847.**—This Act provides regulations for the holding of markets and fairs, the provision of slaughter houses, the weighing of goods and carts, and the levy of tolls. Secs. 42—49 confer the power to make byelaws for regulating the use of the market place and fair, and the inspection and maintenance of slaughter houses. Notice of intention to apply for the allowance of such byelaws must be given in one or more newspapers of the county one month at least before the hearing of the application, and a copy of the proposed byelaws is required to be kept open to inspection, without fee or reward, at the principal office and in the market place.

(*l*) **Public Health Act, 1875.**—See sec. 176, *post*, tit. "*Housing of the Working Classes.*"

57 & 58 Vict.  
c. 57.

Proceedings in  
case of default  
of local  
authorities.

Inspectors and  
other officers of  
local authority.

Reports to  
Board of  
Agriculture.

Orders and  
regulations  
of local  
authorities.

Powers of  
local authori-  
ties to be  
for their  
district.

Transfer of  
powers from  
one local  
authority to  
another, or  
formation of  
united district.

**34.**—(1) Where a local authority fail to execute or enforce any of the provisions of this Act, or of an order of the Board of Agriculture, the Board may by order empower a person therein named to execute and enforce those provisions, or to procure the execution and enforcement thereof.

(2) The expenses incurred under any such order or in respect of any such default by or on behalf of the Board, including compensation for animals slaughtered, shall be expenses of the local authority, and the treasurer or other proper officer of the local authority shall pay the amount of such expenses to the Board on demand, and in default of payment a person appointed by the Board to sue in that behalf, may recover the amount of such expenses, with costs, from the local authority.

(3) For the purposes of this section an order of the Board shall be conclusive in respect of any default, amount of expenses, or other matter therein stated or appearing.

(4) The provisions of this section shall be without prejudice to the right or power of the Board, or any other authority or any person, to take any other proceedings for requiring a local authority to execute or enforce any of the provisions of this Act, or of any order of the Board.

**35.**—(1) Every local authority shall appoint so many inspectors and other officers as the local authority think necessary for the execution and enforcement of this Act, and shall assign to those inspectors and officers such duties and salaries or allowances, and may delegate to any of them such authorities and discretion as to the local authority seem fit, and may at any time revoke any appointment so made.

(2) Every local authority shall keep appointed at all times at least one veterinary inspector, and shall appoint and at all times keep appointed so many other veterinary inspectors as the Board of Agriculture, having regard to the extent and circumstances of the district of the local authority, direct.

(3) The Board, on being satisfied on inquiry that an inspector of a local authority is incompetent, or has been guilty of misconduct or neglect, may, if they think fit, direct his removal, and thereupon he shall cease to be an inspector.

**36.** Every local authority and their inspectors and officers shall send and give to the Board of Agriculture such notices, reports, returns and information as the Board require.

**37.**—(1) An order or regulation of a local authority may be proved—

(i) by the production of a newspaper purporting to contain the order or regulation as an advertisement; or

(ii) by the production of a copy of the order or regulation purporting to be certified by the clerk of the local authority as a true copy.

(2) An order or regulation so proved shall be taken to have been duly made, unless and until the contrary is proved.

(3) An order or regulation of a local authority authorised by this Act or by an order of the Board of Agriculture shall alone be deemed for the purposes of this Act an order or regulation of a local authority.

**38.** The provisions of this Act conferring powers on, or otherwise relating to, a local authority, or their inspectors or officers, shall, unless otherwise expressed, be read as having reference to the district of the local authority; and powers thereby conferred shall, unless it is otherwise expressed, be exerciseable and shall operate within and in relation to that district only.

**39.**—(1) Wherever the whole or any part of the district of any local authority is wholly surrounded by or has a common boundary with the district of any other local authority, those two local authorities may by agreement in writing between themselves make and vary and rescind provisions for the exercise by one of them (in this section referred to as the administering authority) of powers under this Act or any order of the Board of Agriculture within the whole or any part of the district of the other (in this section referred to as the surrendering authority) and for ascertaining the proportion of the expenses of the administering authority to be paid by the surrendering authority, such proportion to be fixed with reference to the rateable value of the part of the district of the surrendering authority surrendered to the administering authority as compared with the rateable value of the original area of the district of the administering authority.

(2) The district or part of a district subjected, in pursuance of an agreement under this section, to the powers of the administering authority, shall, for the

purpose of the exercise of such powers, be deemed to be part of the district of the administering authority, and be dealt with accordingly. 57 & 58 Vict. c. 57.

(3) Any expenses payable by a surrendering authority to an administering authority under this section shall be paid out of the local rate of the surrendering authority.

(4) Provided that where the surrendering authority is the local authority for a borough and the administering authority is the local authority for a county to the rate of which such borough is assessed, the provision of this Act requiring that the local authority of the borough shall be paid by the local authority of the county the proportionate amount paid by the several parishes or parts of parishes in the borough shall not apply.

(5) A local authority may by agreement in writing concur with any other local authority or authorities in appointing out of their respective bodies a joint committee consisting of such number of members with such tenure of office as they may determine, and in assigning to the joint committee a district consisting of the whole or such parts of the districts of the constituent authorities as the authorities may determine, and in delegating to the joint committee within their district the whole or any part of the powers of a local authority, and the joint committee shall, in respect of any powers so assigned to them, exercise the same powers and be subject to the same obligations, and this Act and any order of the Board shall, in respect of the district so assigned, take effect, as if such district were the district of a local authority and the joint committee were a local authority within the meaning of this Act.

(6) All expenses incurred by the joint committee shall be apportioned among the component areas belonging to the different constituent authorities in proportion to the rateable values of such areas, as compared with each other, and shall be paid out of the local rates of the constituent authorities.

(7) An agreement made under this section shall not be valid unless it has been approved by the Board.

(8) The expression "powers" in this section shall not include the power of making or levying a rate, but shall include all other powers, duties, and obligations exercisable by or imposed on a local authority or its officers under or by this Act, or any order of the Board.

#### *Expenses of Local Authorities.*

40.—(1) The expenses of a local authority under this Act shall be defrayed out of the local rate; and such sums as may be necessary to defray those expenses shall be levied with and as part of the local rate. Expenses out of local rate.

(2) The local rate in England and Wales shall be as follows:—

(i) in the case of the local authority for a county, the county rate with the county fund;

(ii) in the case of the local authority for the City of London, the consolidated rate; and

(iii) in the case of the local authority for a borough, the borough rate with the borough fund.

(3) Provided that the payment of the expenses of the local authority for the county of London, under this Act, shall be a general county purpose<sup>(m)</sup> for which the parishes in the City of London shall be liable to be assessed to county contributions.

41.—(1) [*Relief of boroughs from contribution to county expenses.*]

42.—(1) Where the amount or proportion of the local rate levied or required for the purposes of this Act exceeds or would exceed in any financial year sixpence in the pound, a local authority may borrow at interest on the credit of the local rate any money necessary for the purposes of this Act, and may secure the repayment thereof, with interest, by mortgaging the local rate for any term not exceeding seven years. Power for local authority to borrow.

(2) Where the amount or proportion aforesaid exceeds or would exceed in any financial year ninepence in the pound, the Local Government Board may, if they think fit, on application of the local authority, extend the term to any period not exceeding fourteen years.

(m) **General county purpose.**—See the Local Government Act, 1888, sec. 68 (2), *ante*, vol. i.



57 & 58 Vict.  
c. 57.

38 & 39 Vict.  
c. 53.

38 & 39 Vict.  
c. 53.

(3) A local authority, borrowing for the purposes of this section, shall borrow subject to the provisions of the Local Loans Act, 1875 (*n*); and every loan raised under this section shall be discharged in manner prescribed by section thirteen of that Act, for which purpose a sinking fund is hereby prescribed, if in any case the Local Government Board so direct, but not otherwise.

(4) The Public Works Loan Commissioners may, on the recommendation of the Local Government Board, advance money to a local authority in manner provided by the Public Works Loans (Money) Act, 1875, and any enactment amending or substituted for that Act, the same to be repaid, with interest, within the term aforesaid, and the local authority may so borrow accordingly.

(5) A local authority, borrowing for any of the purposes of this Act, may, if they think fit, give as security, either with the local rate, if any, or separately therefrom, the charges which they are authorised to make for the use of a wharf or other place provided by them under this Act, and any estates, revenues, or funds belonging to them and not otherwise appropriated by law; and in that case the limitations in this section respecting the amount or proportion of rate and term of years shall not operate.

#### *Police.*

Duties and  
authorities of  
constables.

**43.**—(1) The police force of each police area shall execute and enforce this Act and every order of the Board of Agriculture.

(2) Where a person is seen or found committing, or is reasonably suspected of being engaged in committing, an offence against this Act, a constable may, without warrant, stop and detain him; and, if his name and address are not known to the constable, and such person fails to give them to the satisfaction of the constable, the constable may, without warrant, apprehend him; and the constable may, whether so stopping or detaining or apprehending the person or not, stop, detain, and examine any animal, vehicle, boat, or thing to which the offence or suspected offence relates, and require the same to be forthwith taken back to or into any place or district wherefrom or whereout it was unlawfully removed, and execute and enforce that requisition.

(3) If any person obstructs or impedes or assists to obstruct or impede a constable or other officer in the execution of this Act or of an order of the Board or of a regulation of a local authority, the constable or officer may without warrant apprehend the offender.

(4) A person apprehended under this section shall be taken with all practicable speed before a justice, and shall not be detained without a warrant longer than is necessary for that purpose; and all enactments relating to the release of persons on recognizances taken by an officer of police or a constable shall apply in the case of a person apprehended under this section.

(5) The foregoing provisions of this section respecting a constable extend and apply to any person called by a constable to his assistance.

(6) A constable shall forthwith make a report in writing to his superior officer of every case in which he stops any person, animal, vehicle, boat, or thing under this section, and of his proceedings consequent thereon.

(7) Nothing in this section shall take away or abridge any power or authority that a constable would have had if this section had not been enacted.

#### *General Administrative Provisions.*

General powers  
of inspectors.

**44.**—(1) An inspector shall have, for the purposes of this Act, all the powers which a constable has, under this Act or otherwise, in the place where the inspector is acting.

(2) An inspector may at any time enter any land or shed to which this Act applies, or other building or place wherein he has reasonable grounds for supposing—

(*n*) **Local Loans Act, 1875.**—This Act provides for the raising of loans by the issue of debentures, or debenture stock or annuity certificates, by a local authority having power to raise a loan by the issue of debenture stock. Sec. 13 enacts that every loan borrowed in manner provided by the Act shall be discharged within the prescribed period, and, if no period is prescribed within the period of twenty years, from the date thereof.

- (a) that disease exists or has within fifty-six days existed; or
- (b) that the carcase of a diseased or suspected animal is or has been kept, or has been buried, destroyed, or otherwise disposed of; or
- (c) that there is to be found any pen, place, vehicle, or thing in respect whereof any person has on any occasion failed to comply with the provisions of this Act, or of an order of the Board of Agriculture, or of a regulation of a local authority; or
- (d) that this Act or an order of the Board or a regulation of a local authority has not been or is not being complied with.

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c. 57.

(3) An inspector may at any time enter any pen, vehicle, vessel, or boat in which or in respect whereof he has reasonable grounds for supposing that this Act or an order of the Board or a regulation of a local authority has not been or is not being complied with.

(4) An inspector entering, as hereinbefore by this section authorised, shall, if required by the owner, or occupier, or person in charge of the land, building, place, pen, vehicle, vessel, or boat, state in writing his reasons for entering.

(5) A certificate of a veterinary inspector to the effect that an animal is or was affected with a disease specified in the certificate shall for the purposes of this Act be conclusive evidence in all courts of justice of the matter certified.

(6) An inspector of the Board shall have all the powers of an inspector throughout England or that part thereof for which he is appointed, and in addition to the powers hereinbefore conferred upon inspectors, an inspector of the Board may at any time, for the purpose of ascertaining whether pleuro-pneumonia, foot-and-mouth disease, or swine fever exists, or has within fifty-six days existed, in any shed, land, or other place, enter such shed, land, or place.

**45.** [*Power for detention of vessels by Board of Agriculture.*]

**46.**—(1) Where a carcase washed ashore is buried or destroyed under the direction of a receiver of wreck with authority from the Board of Trade, the expenses thereof shall be expenses of the local authority, and shall be paid by the local authority to the receiver on demand, and in default of payment shall be recoverable with costs by the receiver from the local authority.

Expenses of  
burial of car-  
cases washed  
ashore.

(2) Where a local authority has incurred any expenses under this section on account of the burial or destruction of the carcase of any animal which, or the carcase of which, was thrown or washed from any vessel, the owner of the vessel shall be liable to repay such expenses to the local authority; and the local authority may recover such expenses with costs in the same manner as salvage is recoverable.

**47.** No stamp duty shall be payable on, and no fee or other charge shall be demanded or made for, any appointment, certificate, declaration, licence, or thing under this Act, or an order of the Board of Agriculture, or a regulation of a local authority, or for any inspection or other act precedent to the granting, making, or doing of a certificate, declaration, licence, or other thing.

Exemption  
from stamp  
duty and fees.

**48.**—(1) In any proceeding under this Act, no proof shall be required of the appointment or handwriting of an inspector or other officer of the Board of Agriculture or of the clerk or an inspector or other officer of a local authority.

Evidence and  
form and  
service of  
instruments.

(2) Every notice under this Act or under any order or regulation made under this Act must be in writing.

(3) Any notice or other instrument under this Act or under an order of the Board or a regulation of a local authority may be served on the person to be affected thereby, either by the delivery thereof to him personally, or by the leaving thereof for him at his last known place of abode or business, or by the sending thereof through the post in a letter addressed to him there.

(4) A notice or other instrument to be served on the occupier of any building, land, or place may, except when sent by post, be addressed to him by the designation of the occupier of that building, land, or place, without naming or further describing him; and where it is to be served on the several occupiers of several buildings, lands, or places, may, except when sent by post, be addressed to them collectively by the designation of the occupiers of those several buildings, lands, or places, without further naming or describing them, but separate copies thereof being served on them severally.

**49.**—(1) The Board of Agriculture may alter or revoke any order of the Board.

Provisions  
respecting

57 & 58 Vict.  
c. 57.

orders of Board  
of Agriculture.

(2) Every order of the Board shall have effect as if it had been enacted by this Act.

(3) The Board shall in the case of every order made by them under this Act, publish in the London Gazette a notice that the order has been made, and of the place where copies of the order may be obtained.

(4) Every local authority shall at their own expense publish every order of the Board, and every licence, or other instrument sent to them by the Board for publication, in such manner as the Board direct, and, subject to and in the absence of any direction, by advertisement in a newspaper circulating in the district of the local authority.

(5) The validity or effect of an order of the Board, licence, or other instrument issued by the Board shall not be affected by want of or defect or irregularity in any publication thereof.

50. [*Board of Agriculture to make yearly return to Parliament.*]

*Offences and Legal Proceedings.*

Penalties for  
offences.

51. If any person is guilty of an offence against this Act, he shall for every such offence be liable—

- (i) to a fine not exceeding twenty pounds; or
- (ii) if the offence is committed with respect to more than four animals, to a fine not exceeding five pounds for each animal; or
- (iii) where the offence is committed in relation to carcases, fodder, litter, dung, or other thing (exclusive of animals), to a fine not exceeding ten pounds in respect of every half ton in weight thereof after one half ton, in addition to the first fine of not exceeding twenty pounds.

General  
offences.

52. If any person, without lawful authority or excuse, proof whereof shall lie on him, does any of the following things, he shall be guilty of an offence against this Act:

- (i) if he does anything in contravention of this Act, or of an order of the Board of Agriculture, or of a regulation of a local authority; or
- (ii) if, where required by this Act or by an order of the Board to keep an animal separate as far as practicable, or to give notice of disease with all practicable speed, he fails to do so; or
- (iii) if he fails to give, produce, observe, or do any notice, licence, rule, or thing which by this Act, or by an order of the Board, or by a regulation of a local authority, he is required to give, produce, observe, or do; or
- (iv) if he does anything which by this Act or an order of the Board is made or declared to be not lawful; or
- (v) if he does or omits anything, the doing or omission whereof is declared by this Act or by an order of the Board to be an offence by him against this Act; or
- (vi) if he refuses to an inspector or other officer, acting in execution of this Act, or of an order of the Board, or of a regulation of a local authority, admission to any land, building, place, vessel, pen, vehicle, or boat which the inspector or officer is entitled to enter or examine, or obstructs or impedes him in so entering or examining, or otherwise in any respect obstructs or impedes an inspector or constable or other officer in the execution of his duty, or assists in any such obstructing or impeding; or
- (vii) if he throws or places, or causes or suffers to be thrown or placed, into or in any river, stream, canal, navigation, or other water, or into or in the sea within three miles of the shore, the carcase of an animal which has died of disease, or been slaughtered as diseased or suspected;

and on a further conviction within a period of twelve months for a second or subsequent offence against the same sub-section of this section he shall be liable, in the discretion of the court, to be imprisoned for any term not exceeding one month, with or without hard labour, in lieu of the fine to which he is liable under this Act.

Imprisonment  
instead of fine  
for use of

53.—(1) If any person does any of the following things, he shall be guilty of an offence against this Act:

- (i) if, with intent to unlawfully evade this Act, or an order of the Board of



Agriculture, or a regulation of a local authority, he does anything for which a licence is requisite under this Act, or an order of the Board, or a regulation of a local authority, without having obtained a licence: or

- (ii) if, where a licence is requisite, having obtained a licence, he, with the like intent, does the thing licensed after the licence has expired: or
- (iii) if he uses or offers or attempts to use as such a licence an instrument not being a complete licence, or an instrument untruly purporting or appearing to be a licence, unless he shows to the satisfaction of the court that he did not know of that incompleteness or untruth, and that he could not with reasonable diligence have obtained knowledge thereof: or
- (iv) if, with intent to unlawfully evade this Act, or an order of the Board of Agriculture, or a regulation of a local authority, he alters or falsely makes, or ante-dates, or counterfeits, or offers or utters, knowing the same to be altered, or falsely made, or ante-dated, or counterfeited, a licence, declaration, certificate, or instalment made or issued, or purporting to be made or issued, under or for any purpose of this Act, or of an order of the Board or of a regulation of a local authority: or
- (v) if, for the purpose of obtaining a licence, certificate, or instrument, he makes a declaration or statement false in any material particular, unless he shows to the satisfaction of the court that he did not know of that falsity, and that he could not with reasonable diligence have obtained knowledge thereof: or
- (vi) if he obtains or endeavours to obtain such a licence, certificate, or instrument by means of a false pretence, unless he shows to the satisfaction of the court that he did not know of that falsity, and that he could not with reasonable diligence have obtained knowledge thereof: or
- (vii) if he grants or issues such a licence, certificate, or instrument, being false in any date or other material particular, unless he shows to the satisfaction of the court that he did not know of that falsity, and that he could not with reasonable diligence have obtained knowledge thereof, or if he grants or issues such a licence, certificate, or instrument, having, and knowing that he has, no lawful authority to grant or issue the same: or
- (viii) if, with intent to unlawfully evade or defeat this Act, or an order of the Board, or a regulation of a local authority, he grants or issues an instrument being in form a licence, certificate, or instrument made or issued under this Act or an order of the Board or a regulation of a local authority, for permitting or regulating the movement of a particular animal, or the doing of any other particular thing, but being issued in blank, that is to say, not being before the issue thereof so filled up as to specify any particular animal or thing: or
- (ix) if he uses or offers or attempts to use for any purpose of this Act, or of an order of the Board, or of a regulation of a local authority, an instrument so issued in blank, unless he shows to the satisfaction of the court that he did not know of it having been so issued in blank, and that he could not with reasonable diligence have obtained knowledge thereof: or
- (x) if he by means of any fraud or false pretence obtains, or attempts to obtain, compensation from the Board or a local authority in respect of an animal slaughtered, or aids or abets any person in any such fraud or false pretence: or
- (xi) if, without lawful authority or excuse, proof whereof shall lie on him, he digs up, or causes to be dug up, a carcase buried under the direction of the Board or of a local authority or of a receiver of wreck: or
- (xii) if, where the Board has by order prohibited, absolutely or conditionally, the use for the carrying of animals, or for any purpose connected therewith, of a vessel, vehicle, or pen or other place, he, without lawful authority or excuse, proof whereof shall lie on him, does anything so prohibited.

(2) And in every case in this section specified he shall be liable, on conviction, in the discretion of the court, to be imprisoned for any term not exceeding two months, with or without hard labour, in lieu of the fine to which he is liable under this Act.

54. Any offence against this Act may be prosecuted, and any fine in respect thereof may be recovered, and any money by this Act or an order of the Board of Agriculture made recoverable summarily may be recovered, and any summary orders under this Act or an order of the Board may be made in manner provided

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expired  
licences,  
digging up of  
carcases, and  
other specified  
offences.

Proceedings in  
court of sum-  
mary jurisdic-  
tion.

57 & 58 Vict. c. 57. by the Summary Jurisdiction Acts (o); but nothing in this section shall apply to proceedings under the Customs Acts.

Appeal.

**55.** If any person thinks himself aggrieved by the dismissal of a complaint by, or by any determination or adjudication of, a court of summary jurisdiction under this Act, he may appeal therefrom to a court of quarter sessions (p).

Proceedings under Customs Acts for unlawful landing or shipping.

**56.** (1) If any person lands or ships or attempts to land or ship an animal or thing in contravention of this Act or of an order of the Board of Agriculture, he shall be liable, under and according to the Customs Acts, to the penalties imposed on persons importing or exporting or attempting to import or export goods the importation or exportation whereof is prohibited by or under the Customs Acts (o) without prejudice to any proceeding against him under this Act for an offence against this Act.

(2) The animal or thing in respect whereof the offence is committed shall be forfeited under and according to the Customs Acts in like manner as goods the importation whereof is prohibited by or under the Customs Acts.

General provision as to procedure.

**57.**—(1) Where the owner or person in charge of an animal is charged with an offence against this Act relative to disease or to any illness of the animal, he shall be presumed to have known of the existence of the disease or illness, unless and until he shows to the satisfaction of the court that he had not knowledge thereof, and could not with reasonable diligence have obtained that knowledge.

(2) Where a person is charged with an offence against this Act in not having duly cleansed or disinfected any place, vessel, vehicle, or thing belonging to him or under his charge, and a presumption against him on the part of the prosecution is raised, it shall lie on him to prove the due cleansing and disinfection thereof.

(3) A person charged with an offence against this Act may, if he thinks fit, tender himself to be examined on his own behalf, and thereupon he may give evidence in the same manner and with the like effect and consequences as any other witness.

(4) Every offence against this Act shall be deemed to have been committed, and every cause of complaint or matter for summary proceeding under this Act or an order of the Board of Agriculture or regulation of a local authority shall be deemed to have arisen, either in any place where the same actually was committed or arose, or in any place where the person charged or complained of or proceeded against happens to be at the time of the institution or commencement of the charge, complaint, or proceeding.

(5) Notwithstanding anything in any Act relating to the metropolitan police or to municipal corporations or in any other Act, such part not exceeding one half of every fine or forfeiture recovered under this Act (except in proceedings under the Customs Acts) as the Court before which it is recovered thinks fit, shall be paid to the person who proceeds for the same, and the residue thereof shall be applied as if this section had not been enacted.

#### Miscellaneous.

**58.** [*Local authority and local rate in Hove.*]

Interpretation and construction.

**59.**—(1) In this Act, unless the context otherwise requires, the following terms shall have the meanings hereinafter respectively assigned to them, that is to say:

the expression "cattle" means bulls, cows, oxen, heifers, and calves:

the expression "animals" means, except where it is otherwise expressed, cattle, sheep, and goats, and all other ruminating animals, and swine:

the expression "disease" means cattle plague (that is to say, rinderpest, or the disease commonly called cattle plague), contagious pleuro-pneumonia, of cattle (in this Act called pleuro-pneumonia), foot-and-mouth disease, sheep-pox, sheep-scab, or swine-fever (that is to say, the disease known as typhoid fever of swine, soldier purples, red disease, hog cholera or swine-plague):

(o) **Summary proceedings.** Appeal to quarter sessions.—As to summary proceedings, and the time and manner of appealing to quarter sessions, see note to the Met. Man. Act, 1855, sec. 227, *ante*, vol. i.

(p) **Customs Acts.**—i.e., the Customs Consolidation Act, 1876 (39 & 40 Vict. c. 36), as amended by subsequent Acts.

the expression "diseased" means affected with disease:

the expression "suspected" means suspected of being diseased:

the expression "carcase" means the carcase of an animal, and includes part of a carcase, and the meat, bones, hide, skin, hoofs, horns, offal, or other part of an animal, separately or otherwise, or any portion thereof:

the expression "fodder" means hay or other substance commonly used for food of animals:

the expression "litter" means straw or other substance commonly used for bedding or otherwise for or about animals:

the expression "foreign," applied to animals and things, means brought to the United Kingdom from a country out of the United Kingdom:

the expression "inspector of the Board of Agriculture" or "inspector of a local authority" means a person appointed to be an inspector for purposes of this Act by the Privy Council or the Board of Agriculture, or by a local authority, as the case may be; and the expression "inspector," used alone, means such a person, by whichever authority appointed:

the expression "veterinary inspector" means an inspector being a member of the Royal College of Veterinary Surgeons, or any veterinary practitioner qualified as approved by the Board of Agriculture:

the expressions "police area" and "police force" with respect to the City of London mean the said city and the police thereof, and with respect to any other place have the same meaning as in the Police Act, 1890:

the expression "district," when used with reference to a local authority, means the area for which the local authority exercises powers under this Act:

the expression "the Custom Acts" means the Customs Consolidation Act, 1876, and any enactment amending or substituted for that Act:

the expression "justice" means justice of the peace:

the expression "railway company" includes a company or person working a railway under lease or otherwise:

the expression "Order of Council" means an Order of the Privy Council under the Contagious Diseases (Animals) Acts, 1875 to 1886:

the expression "order of the Board of Agriculture" means an order made by the Board of Agriculture under this Act or under any enactment by this Act repealed.

(2) In the computation of time for purposes of this Act, a period reckoned by days from the happening of an event or the doing of an act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done.

60—64. [*Special Provisions as to Scotland.*]

65—77. [*Special Provisions as to Ireland.*]

#### *Supplemental.*

78.—(1) The Acts specified in the fifth schedule to this Act are hereby repealed to the extent specified in the third column to that schedule.

Repeal of enactments in schedule.

(2) Notwithstanding such repeal, every Order of Council and in Council, and every order of the Board of Agriculture, or regulation of a local authority made, and every licence granted, and every committee or sub-committee constituted, and every inspector appointed, under any of the enactments repealed, shall continue and be as if this Act had not been passed; but so that the same may be revoked, altered, cancelled, or otherwise dealt with under this Act, as if it had been made, done, or granted under this Act.

79. This Act may be cited as the Diseases of Animals Act, 1894.

Short title.

#### SCHEDULES.

##### THE FIRST SCHEDULE.

Section 11.

##### PART I.

##### *Pleuro-Pneumonia.*

1. Cattle shall not be moved into or out of a place infected with pleuro-pneumonia, except where, as regards movement into such a place, the cattle



57 & 58 Vict. are affected with pleuro-pneumonia, and except in such other cases as the Board  
c. 57. of Agriculture think fit by order to except.

2. In the cases so excepted by order cattle may be moved into or out of an infected place on conditions prescribed by order of the Board, and not otherwise.

3. Cattle may be moved into, within, or out of such parts of an area infected with pleuro-pneumonia as are not comprised in a place infected with pleuro-pneumonia, by licence of the local authority, granted on conditions prescribed by order of the Board, and not otherwise.

## PART II.

### *Foot-and-Mouth Disease.*

1. Animals shall not be moved into or out of a place infected with foot-and-mouth disease except where, as regards movement into such a place, the animals are affected with foot-and-mouth disease, and except in such other cases as the Board of Agriculture think fit by order to except.

2. In the cases so excepted by order animals may be moved into or out of an infected place on conditions prescribed by order of the Board, and not otherwise.

3. Animals may be moved into, within, or out of such parts of an area infected with foot-and-mouth disease as are not comprised in a place infected with foot-and-mouth disease, by licence of the local authority, granted on conditions prescribed by order of the Board, and not otherwise.

Sections 18, 75.

## THE SECOND SCHEDULE.

[*Regulations as to Cattle Pleuro-pneumonia Accounts of Board of Agriculture.*]

Sections 24,  
26, 27.

## THE THIRD SCHEDULE.

### FOREIGN ANIMALS.

## PART I.

### *Slaughter at Port of Landing.*

1. The animals shall be landed only at a part of a port defined for that purpose by order of the Board of Agriculture, to be called a foreign animals wharf.

2. The animals shall be landed in such manner, at such times, and subject to such supervision and control as the Commissioners of Customs direct.

3. The animals shall not be moved alive out of the wharf.

## PART II.

### *Quarantine.*

1. The animals shall be landed only at a part of a port defined for that purpose by order of the Board of Agriculture, to be called a foreign animals quarantine station.

2. The animals shall be landed in such manner, at such times, and subject to such supervision and control as the Commissioners of Customs direct, and subject to such conditions in respect of the animals, or of the vessel from which they are landed, as the Board by order prescribe.

3. When landed the animals shall be placed in sheds or other receptacles in the quarantine station, prepared by the local authority or the owners of the quarantine station, or the consignees of animals, or other persons, and approved by the Board.

4. The animals shall not be moved out of the quarantine station except on conditions prescribed by order of the Board.

5. Notwithstanding anything in the foregoing provisions of this part of this schedule the provisions of this Act relating to slaughter in case of the existence of disease, and to compensation or other payment in respect of animals so slaughtered, and to the ownership of carcases of such animals, shall apply to animals within a foreign animals quarantine station.

## THE FOURTH SCHEDULE.

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## COMMITTEES OF LOCAL AUTHORITIES.

Section 30.

1. Every local authority shall form and keep up a committee or committees, and may appoint the number of members by whom the powers of a committee may be exercised, and may at any time add to or diminish the number of the members of a committee, or otherwise alter the constitution thereof, and fill up or provide for the filling up of vacancies therein, or revoke the appointment thereof and appoint another committee or committees, and lay down rules for the guidance of a committee, who shall act accordingly.

2. A committee may consist wholly of members of the local authority or partly thereof, and partly of other persons, being rated occupiers in the district of the local authority, and otherwise qualified, as the local authority think fit.

3. A local authority may except in so far as it is otherwise provided by order of the Board of Agriculture delegate all or any of their powers, except the power to make a rate, to a committee, with or without conditions or restrictions.

4. A local authority may revoke or alter any power given by them to a committee.

5. A local authority may, if they think fit, appoint and designate one committee as their executive committee.

6. An executive committee shall have all the powers of the local authority, except the power to make a rate, and may, if they think fit, appoint a sub-committee or sub-committees, and delegate to them [except in so far as it is otherwise provided by order of the Board (g)] all or any of the powers of the executive committee, with or without conditions or restrictions, and revoke or alter any such delegation; and appoint the number of members by whom the powers of a sub-committee may be exercised, and add to or diminish the number of the members of a sub-committee, or otherwise alter the constitution thereof, and fill up or provide for the filling up of vacancies therein, or revoke the appointment thereof and appoint another sub-committee or other sub-committees, and lay down rules for the guidance of a sub-committee who shall act accordingly.

7. Proceedings of a committee or sub-committee shall not be invalidated by any vacancy in the committee or sub-committee.

8. In case of the formation of two or more committees, they shall act according to rules laid down for their guidance by the local authority.

9. A committee, and a sub-committee of an executive committee, may elect a chairman of their meetings.

10. If no chairman is elected, or if the chairman so elected is not present at the time appointed for a meeting, the members then present shall choose a chairman for that meeting.

11. A committee or sub-committee may meet and adjourn as they think proper.

12. Every question at a meeting of a committee or sub-committee shall be determined by a majority of the votes of the members, including the chairman, present and voting on the question; and in case of equal division, the chairman shall have a second vote.

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(g) Otherwise provided by Board.—See sec. 31 (2), *ante*.

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c. 57.

## THE FIFTH SCHEDULE.

## ENACTMENTS REPEALED.

Section 78.

| Session and Chapter.   | Title or Short Title.                                                       | Extent of Repeal.                                       |
|------------------------|-----------------------------------------------------------------------------|---------------------------------------------------------|
| 41 & 42 Vict. c. 74. - | The Contagious Diseases (Animals) Act, 1878.                                | The whole Act, except section thirty-four ( <i>r</i> ). |
| 47 & 48 Vict. c. 13. - | The Contagious Diseases (Animals) Act, 1884.                                | The whole Act.                                          |
| 47 & 48 Vict. c. 47. - | The Contagious Diseases (Animals) Transfer of Parts of Districts Act, 1884. | The whole Act.                                          |
| 49 & 50 Vict. c. 32. - | The Contagious Diseases (Animals) Act, 1886.                                | The whole Act, except section nine ( <i>q</i> ).        |
| 52 & 53 Vict. c. 30. - | The Board of Agriculture Act, 1889.                                         | Section three.                                          |
| 53 & 54 Vict. c. 14. - | The Contagious Diseases (Animals) (Pleuro-pneumonia) Act, 1890.             | The whole Act.                                          |
| 55 & 56 Vict. c. 47. - | The Contagious Diseases (Animals) Act, 1892.                                | The whole Act.                                          |
| 56 & 57 Vict. c. 43. - | The Contagious Diseases (Animals) Act, 1893.                                | The whole Act.                                          |

(*r*) **Contagious Diseases (Animals) Acts, 1878 and 1886.**—Sec. 34 of the former Act and sec. 9 of the latter Act are repealed as to London by the Pub. Hlth. (London) Act, 1891, sec. 142, *ante*, vol. i.



## DISORDERLY HOUSES, BROTHELS.

|                                                                                       |              |
|---------------------------------------------------------------------------------------|--------------|
| 25 Geo. II. c. 36 secs. 5—8, 10, 13 and 14 ("The Disorderly Houses Act, 1751") .....  | page 793     |
| 58 Geo. III. c. 70 ("The Disorderly Houses Act, 1818").....                           | note (b) 793 |
| 48 & 49 Vict. c. 69, secs. 13, 14, 16, 20 ("The Criminal Law Amend. Act, 1885") ..... | 795          |

## DISORDERLY HOUSES ACT, 1751 (a).

**25 Geo. II. c. 36.** An Act for the better preventing Thefts and Robberies, and for regulating places of public Entertainment, and punishing Persons keeping disorderly Houses.

1. [*Rep. 30 & 31 Vict. c. 59. Statute Law Revision.*]

2-4. [*Music and Dancing Licenses. Post, tit. "Theatres," &c.*]

5. And in order to encourage prosecutions against persons keeping bawdy houses, gaming houses, or other disorderly houses, be it enacted by the authority aforesaid, that if any two inhabitants of any parish or place, paying scot and bearing lot therein, do give notice in writing to any constable (or other peace officer of the like nature, where there is no constable,) of such parish (b) or place of any person keeping a bawdy house (c), gaming house, or other disorderly house in such parish or place, the constable or such officer as aforesaid so receiving such notice, shall forthwith go with such inhabitants to one of His Majesty's justices of the peace of the county, city, riding, division, or liberty in which such parish or place does lie, and shall upon such inhabitants making oath before such justice that they do believe the contents of such notice to be true, and entering into a recognizance in the penal sum of twenty pounds each to give or produce material evidence against such person for such offence, enter

Constable's duty upon notice given him of persons keeping a bawdy house, gambling house, or other disorderly houses, &c.

(a) **Short title.**—The above short title is authorised by the Short Title Act, 1896 (59 & 60 Vict. c. 14).

(b) **Notice to constable.**—"A copy of the notice which shall be given to such constable shall also be served on or left at the places of abode of the overseers of the poor of such parish or place, or one of them, and such overseers or overseer of the poor shall be summoned or have reasonable notice to attend before such justice of the peace before whom such constable shall have notice to attend; and if such overseers or overseer of the poor shall then and there enter into such recognizance to prosecute such offender as the constable is in and by the said Act (*supra*) required to enter into, then it shall not be necessary for, nor shall such constable be required to enter into such recognizance; but if such overseers or overseer of the poor shall neglect to attend such justice on having such notice, or shall attend and shall decline or refuse to enter into such recognizance to prosecute, then such constable shall enter into the same, and shall prosecute, and shall be entitled to his expenses, to be allowed as in and by the said Act (*supra*) is directed." Disorderly Houses Act, 1818 (58 Geo. 3 c. 70), sec. 7. The other sections of that Act were repealed by the Criminal Law Act, 1826 (7 Geo. 4 c. 64), sec. 32.

A metropolitan inspector of police is not a parish constable within the meaning of the Act. *Garland v. Ahrbeck*, 5 T. L. R. 91.

(c) **Person keeping bawdy house.**—The landlord of a house let to a tenant who uses it as a brothel, cannot be convicted under the Act of keeping a brothel merely because, having notice of the nature of the tenant's occupation, he does not give him notice to quit. *Reg. v. Barrett*, 32 L. J. M. C. 36; 7 L. T. (N. S.) 435. But see now the Criminal Law Amend. Act, 1885, sec. 13 (3), *infra*. The owner of a house which he lets out in different apartments to young women, who use the apartments for the purpose of prostitution, is not the keeper of a disorderly house within the Act. *Reg. v. Stannard*, 33 L. J. M. C. 61; 9 L. T. (N. S.) 428. But see now the Criminal Law Amend. Act, 1885, sec. 13 (2), *infra*. A person is liable to be convicted of keeping a disorderly house on evidence of men and women constantly meeting there for immoral purposes, without any evidence of indecency or disorderly conduct being perceptible from the exterior. *Reg. v. Rice*, 35 L. J. M. C. 93; 13 L. T. (N. S.) 382. See also *Singleton v. Ellison*, *infra*, and *Greig v. Bendeno*, E. B. & E. 133; 27 L. J. M. C. 294. Any person, whether a servant or not, who acts or assists in the management of a brothel, may be convicted as an aider and abettor under the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), sec. 5. *Wilson v. Stewart*, 3 B. & S. 913; 32 L. J. M. C. 198; or summarily as a principal under the Criminal Law Amend. Act, 1885, sec. 13, *infra*.

25 Geo. 2,  
c. 36.

The charge of prosecution, and 10% on conviction, to each of the two inhabitants, to be paid by the overseers, on penalty of forfeiting double the sum.

Persons keeping such bawdy house, &c., to be bound over to answer the indictment.

Constable neglecting his duty forfeits 20*l*.

Who shall be deemed the keeper of such bawdy house, &c.

into a recognizance in the penal sum of thirty pounds to prosecute with effect such person for such offence at the next general or quarter session of the peace, or at the next assizes (*d*) to be holden for the county in which such parish or place does lie, as to the said justices shall seem meet; and such constable or other officer shall be allowed all the reasonable expenses of such prosecution, to be ascertained by any two justices of the peace of the county, city, riding, division, or liberty where the offence shall have been committed, and shall be paid the same by the overseers of the poor of such parish or place; and in case such person shall be convicted (*e*) of such offence the overseers of the poor of such parish or place shall forthwith pay the sum of ten pounds (*f*) to each of such inhabitants; and in case such overseer shall neglect or refuse to pay to such constable or other officer such expenses of the prosecution as aforesaid, or shall neglect or refuse to pay, upon demand, the said sums of ten pounds, and ten pounds, such overseers, and each of them, shall forfeit to the person entitled to the same double the sum so refused or neglected to be paid (*g*).

6. Provided always, and be it enacted by the authority aforesaid, that upon such constable or other officer entering into such recognizance to prosecute as aforesaid, the said justice of the peace shall forthwith make out his warrant (*h*) to bring the person so accused of keeping a bawdy house, gaming house, or other disorderly house before him, and shall bind him or her over to appear at such general or quarter sessions or assizes, there to answer to such Bill or indictment as shall be found against him or her for such offence; and such justice shall and may, if in his discretion he thinks fit, likewise demand and take security for such person's good behaviour in the meantime, and until such indictment shall be found, heard, and determined, or be returned by the grand jury, not to be a true bill.

7. Provided also, that in case such constable shall neglect or refuse, upon such notice, to go before any justice of the peace, or to enter into such recognizance, or shall be wilfully negligent in carrying on the said prosecution, he shall for every such offence forfeit the sum of twenty pounds to each of such inhabitants so giving notice as aforesaid.

8. And whereas by reason of the many subtle and crafty contrivances of persons keeping bawdy houses, gaming houses, or other disorderly houses, it is difficult to prove who is the real owner or keeper thereof, by which means many notorious offenders have escaped punishment: Be it enacted by the authority aforesaid, that any person who shall at any time hereafter appear, act, or behave him or herself as master or mistress, or as the person having the care, government, or management of any bawdy house, gaming house, or other disorderly house, shall be deemed and taken to be the keeper thereof, and shall be liable to be prosecuted and punished as such, notwithstanding he or she shall not in fact be the real owner or keeper thereof.

9. [*Rep. 30 & 31 Vict. c. 59. Statute Law Revision.*]

(*d*) **Prosecute at quarter sessions, &c.**—Brothel keepers may now be prosecuted, summarily (Criminal Law Amend. Act, 1885, sec. 13, *infra*) with or without the preliminaries prescribed by this section. *Kerwin v. Hines, infra*.

(*e*) **Shall be convicted.**—Where the keeper of a disorderly house pleaded guilty, but was not brought up for sentence until some months afterwards, it was held that he was not convicted within the meaning of the Act until sentence was pronounced. *Burgess, v. Boetefur*, 8 Scott N. R. 194; 13 L. J. M. C. 122.

(*f*) **Payment by overseers.**—The overseers in office at the time of the conviction, though not in office at the time the prosecution is undertaken, are liable to pay the reward. *Burgess v. Boetefur, supra*. In order to entitle the informer to the reward, the preliminaries required by this section must be observed, and the prosecution must have been conducted *bonâ fide* by the constable or overseers, and not by the inhabitants themselves. *Ibid.*; *Clarke v. Rice*, 1 B. & Ald. 694; *Garland v. Ahrbeck, supra*.

(*g*) **Refusal of overseers to pay.**—A demand on the overseers, and refusal by them to pay the reward, entitles the informer to maintain an action against them for the penalty, notwithstanding that no demand has been made upon the churchwardens. *Burgess v. Boetefur, supra*.

(*h*) **Warrant.**—The provisions of this section apply to a prosecution by summary proceedings under the Criminal Law Amend. Act, 1885, *infra*, of a person accused of keeping a brothel; and therefore if an application is made on such a prosecution for a warrant, the magistrate is bound to grant it. *Reg. v. Newton* (1892), 1 Q. B. 648; 61 L. J. M. C. 121.

10. . . . No indictment which shall . . . be preferred against any person for keeping a bawdy house, gaming house, or other disorderly house, shall be removed by any writ of certiorari (*i*) into any other court, but such indictment shall be heard, tried, and finally determined at the same general or quarter session or assizes where such indictment shall have been preferred (unless the court shall think proper, upon cause shown, to adjourn the same), any such writ or allowance thereof notwithstanding.

25 Geo. 2,  
c. 36.

Indictment not  
removable by  
certiorari into  
any other  
court.

11—12. [*Rep. 30 & 31 Vict. c. 59. Stat. Law Rev.*]

13. . . . Any person entitled to any of the forfeitures by this Act imposed may sue for the same by action of debt in any of His Majesty's courts of record at Westminster, in which it shall be sufficient to declare that the defendant is indebted to the plaintiff in the sum of . . . being forfeited by an Act, intituled, "An Act for the better preventing Thefts and Robberies, and for regulating Places of Public Entertainment, and punishing Persons keeping disorderly Houses"; and the plaintiff, if he recover in any such action, shall have his full costs.

Recovery of  
forfeitures.

Full costs.

14. Provided that no action shall be brought by virtue of this Act unless the same shall be commenced within the space of six calendar months after the offence committed.

Limitation of  
actions.

15. [*Rep. 30 & 31 Vict. c. 59. Stat. Law Rev.*]

### CRIMINAL LAW AMENDMENT ACT, 1885.

48 & 49 Vict. c. 69. An Act to make further provision for the Protection of Women and Girls, the suppression of brothels, and other purposes.  
[14th August, 1885]

1. This Act may be cited as the Criminal Law Amendment Act, 1885.

Short title.

#### PART I.

2—12. [*Protection of women and girls (k).*]

#### PART II. *Suppression of Brothels.*

13. Any person who—

- (1) keeps or manages or acts or assists in the management of a brothel (*l*), or
- (2) being the tenant, lessee, or occupier of any premises, knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution, or
- (3) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel,

Summary  
proceedings  
against brothel  
keeper, &c.

shall on summary conviction in manner provided by the Summary Jurisdiction Acts, be liable—

- (1) to a penalty not exceeding twenty pounds, or, in the discretion of the court, to imprisonment for any term not exceeding three months, with or without hard labour (*m*), and

(*i*) **Writ of certiorari.**—No indictment for keeping a disorderly house can be removed by *certiorari*, whether the indictment is at the prosecution of a constable or at the instance of a private individual. *Reg. v. Sanders*, 9 Q. B. 235; 15 L. J. M. C. 158.

(*k*) **Sections 2—12.**—These sections do not impose any duties or confer any powers on the local authorities.

(*l*) **Brothel keeper.**—A woman who occupies a house to which she admits men day and night for the purpose of committing fornication with her, no other woman living in or using the house for the purpose of prostitution, commits no offence within this section. *Singleton v. Ellison* (1895), 1 Q. B. 607; 64 L. J. M. C. 123; and see note (*c*), *supra*.

(*m*) **Penalty or imprisonment.**—The infliction of a penalty, with the alternative, in case of non-payment, of imprisonment with hard labour, is good. *Reg. v. Tyne-mouth JJ.*, 16 Q. B. D. 647; 55 L. J. M. C. 181.



48 & 49 Vict.  
c. 69.

(2) on a second or subsequent conviction to a penalty not exceeding forty pounds, or, in the discretion of the court, to imprisonment for any term not exceeding four months, with or without hard labour;

and in case of a third or subsequent conviction such person may, in addition to such penalty or imprisonment as last aforesaid, be required by the court to enter into a recognizance, with or without sureties, as to the court seems meet, to be of good behaviour for any period not exceeding twelve months, and in default of entering into such recognizance, with or without sureties (as the case may be), such person may be imprisoned for any period not exceeding three months, in addition to any such term of imprisonment as aforesaid.

Any person on being summarily convicted in pursuance of this section may appeal to a court of general or quarter sessions against such conviction (*n*).

The enactments for encouraging prosecutions of disorderly houses contained in sections five, six, and seven of the Act passed in the twenty-fifth year of the reign of King George the Second, chapter thirty-six, as amended by the enactment contained in section seven of the Act passed in the fifty-eighth year of the reign of King George the Third, chapter seventy, shall, with the necessary modifications, be deemed to apply to prosecutions under this section, and the said enactments shall, for the purposes of this section, be construed as if the prosecution in such enactments mentioned included summary proceedings under this section as well as a prosecution on indictment (*o*).

### PART III. *Definitions and Miscellaneous.*

Definitions.

14. In this Act—

The expression “The Summary Jurisdiction Acts”—

42 & 43 Vict.  
c. 49.

(a) as regards England means the Summary Jurisdiction (English) Acts within the meaning of the Summary Jurisdiction Act, 1879, and

(b) as regards Ireland . . .

15. [*Application of Act to Scotland.*]

The expression “enter into a recognizance with or without sureties” shall mean “grant a bond of caution.”

The expression “High Court or court of general or quarter sessions” shall mean the High Court or a circuit court of judicature.

Saving of  
liability to  
other criminal  
proceedings.

16. This Act shall not exempt any person from any proceeding for an offence which is punishable at common law, or under any Act of Parliament other than this Act, so that a person be not punished twice for the same offence.

17. [*Procedure on indictments under Act.*]

18. [*Costs of prosecuting misdemeanour indictable under Act.*]

19. [*Repeal of enactments in schedule.*]

Person charged  
and his wife to  
be competent  
witnesses.

20. Every person charged with an offence under this Act, . . . and the husband or wife of the person so charged, shall be competent but not compellable witnesses on every hearing at every stage of such charge, except an inquiry before a grand jury.

(*n*) **Appeal to quarter sessions.**—See note to sec. 227 of the Met. Man. Act, 1855, *ante*, vol. i., as to the time and manner of appealing.

(*o*) **Prosecutions.**—Proceedings under this Act may be taken without the preliminaries prescribed by the Disorderly Houses Act, 1751, sec. 5, *supra*, in which case the prosecutor will not be entitled to any reward. If, however, the informer has recourse to such preliminaries, proceedings may then be either by indictment or in a summary manner, and the informer is entitled to the reward provided for by that section. *Kerwin v. Hines*, 50 J. P. 230; 54 L. T. (N. S.) 610. A warrant may be issued for the arrest of a person against whom summary proceedings are taken under this section. *Reg. v. Newton, supra*.

**ELECTRIC LIGHTING.**

|                                                          |          |
|----------------------------------------------------------|----------|
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**ELECTRIC LIGHTING ACT, 1882.**

**45 & 46 Vict. c. 56.** An Act to facilitate and regulate the supply of Electricity for Lighting and other purposes in Great Britain and Ireland.  
[18th August, 1882]

1. This Act may be cited for all purposes as the Electric Lighting Act, 1882. Short title.
2. The provisions of this Act shall apply to every local authority, company, or person who may by this Act or any licence or provisional order granted under this Act, or by any special Act to be hereafter passed, be authorised to supply electricity within any area (in this Act referred to as "the undertakers") and to every undertaking so authorised, except so far as may be expressly provided by any such special Act; and every such licence, provisional order, and special Act, is in this Act included in the expression "licence, order, or special Act." Application of Act.
3. The Board of Trade may from time to time license any local authority as defined by this Act (*a*), or any company or person, to supply electricity under this Act for any public or private purposes within any area, subject to the following provisions: Granting of licences authorising the supply of electricity.
  - (1) The consent of every local authority having jurisdiction within the area or any part of the area within which a supply is licensed to be furnished shall be required to the application for a licence, which consent such local authority is hereby authorised to give, with such conditions (if any) as, subject to the approval of the Board of Trade, the local authority may prescribe:
  - (2) A licence shall be for any period not exceeding seven years, but may, at or after the expiration of such licence, be renewed from time to time for a like period with such consent as above mentioned upon such terms and conditions as the Board of Trade may determine:
  - (3) "Public purposes" shall mean lighting any street or any place belonging to or subject to the control of the local authority, or any church or registered place of public worship, or any hall or building belonging to or subject to the control of any public authority, or any public theatre, but shall not include any other purpose to which electricity may be applied:
  - (4) "Private purposes" shall include any purposes whatever to which electricity may for the time being be applicable, not being public purposes, except the transmission of any telegram:
  - (5) Every local authority, company, or person applying for a licence shall publish notice of their application by public advertisement in such manner and including such particulars as the Board of Trade may from time to time direct or approve; and such licence shall not be granted by the Board of Trade until after the expiration of a period of three months (*b*) from the date of the first publication of such advertisement, nor until opportunity has been given to all parties interested to make representations or objections to the Board of Trade with reference to the application:
  - (6) No application for a licence shall be made by any local authority except in pursuance of a resolution to be passed at a special meeting of the local authority, and such special meeting shall only be held after one month's (*b*) previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given:
  - (7) A licence may, subject to the provisions of this Act, be granted to a local authority authorising them to supply electricity within any area although the same or some part thereof may not be included within their own district:
  - (8) The licence may make such regulations as to the limits within which and

(*a*) **Local authority** is defined by sec. 31, *post*.

(*b*) **Month**, i.e., calendar month. Interpretation Act, 1889 (52 & 53 Vict. c. 63), sec. 3.

45 & 46 Vict.  
c. 56.

the conditions under which a supply of electricity is to be compulsory or permissive, and for enforcing the performance by the licensees of their duties in relation to such supply, and for the revocation of the licence where the licensees fail to perform such duties, and generally may contain such regulations and conditions as the Board of Trade may think expedient.

- (9) Where in any area or part of an area in which any undertakers are authorised to supply electricity under any licence the undertakers are not themselves the local authority, the licence may contain any provisions and restrictions for enabling the local authority within whose jurisdiction such area or part of an area may be to exercise any of the powers of the undertakers under this Act with respect to the breaking up of any street repairable by such local authority within such area or part of an area, and the alteration of the position of any pipes or wires being under such street, and not being the pipes or wires of the undertakers, on behalf and at the expense of the undertakers, and for limiting the powers and liabilities of the undertakers in relation thereto, which the Board of Trade may think expedient.

Granting of  
provisional  
orders  
authorising  
the supply of  
electricity.

4. The Board of Trade may from time to time, by provisional order, authorise any local authority, company, or person to supply electricity for any public or private purposes within any area, without requiring such consents as are required to the granting a licence under this Act (c), and for such period, whether limited or unlimited, as the Board of Trade may think proper, but in all other respects subject to the like provisions as in the last section contained with respect to licences, and subject also to the following provisions:—

- (1) No provisional order shall authorise the supply of electricity by any undertakers within the district of any local authority (not being themselves the undertakers), unless notice that such provisional order has been or is intended to be applied for has been given to such local authority by the applicants in such manner as the Board of Trade may direct or approve on or before the first day of July in the year in which such application is made; provided that in the case of any application made during the present year such notice shall be deemed to have been given in due time if the same is given within one month after the passing of this Act:
- (2) The Board of Trade may submit to Parliament for confirmation any provisional order granted by it in pursuance of this Act, but any such order shall be of no force unless and until it is confirmed by Act of Parliament:
- (3) If, while the bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the bill, so far as it relates to such order, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of private bills:
- (4) Any Act confirming any provisional order granted in pursuance of this Act may, on the application of the undertakers thereby authorised to supply electricity, be repealed, altered, or amended by any subsequent provisional order granted by the Board of Trade and confirmed by Parliament.

Making of  
rules as to  
application,  
&c. under  
Act.

5. The Board of Trade may from time to time make, and when made may rescind, alter, or repeal rules in relation to the applications for licences or provisional orders, and to the payments to be made in respect thereof, and to the publication of notices and advertisements, and the manner in which and the time within which representations or objections with reference to any application are to be made, and to the holding of local inquiries in such cases as they may think it advisable, and to any other matters arising under this Act (d).

Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed.

Any rules made in pursuance of this section shall be laid before Parliament within three weeks after they are made if Parliament be then sitting, and if

(c) **Consent.**—No provisional order authorising the supply of electricity within the district of any local authority can now be granted without their consent, unless such consent is dispensed with by the Board of Trade. *Electric Lighting Act, 1888, sec. 1, post.*

(d) **Rules.**—The rules of the Board of Trade under this section now in force are dated August, 1890.



Parliament be not then sitting, within three weeks after the beginning of the next session of Parliament.

6. The undertakers shall be subject to such regulations and conditions as may be inserted in any licence, order, or special Act affecting their undertaking with regard to the following matters:

- (a) The limits within which and the conditions under which a supply of electricity is to be compulsory or permissive;
- (b) The securing a regular and efficient supply of electricity;
- (c) The securing the safety of the public from personal injury, or from fire or otherwise;
- (d) The limitation of the prices to be charged in respect of the supply of electricity;
- (e) The authorising inspection and inquiry from time to time by the Board of Trade and the local authority;
- (f) The enforcement of the due performance of the duties of the undertakers in relation to the supply of electricity by the imposition of penalties or otherwise, and the revocation of the licence, order, or special Act where the undertakers have, in the opinion of the Board of Trade, practically failed to carry the powers granted to them into effect within a reasonable time, or discontinued the exercise of such powers; and
- (g) Generally with regard to any other matters in connexion with the undertakings.

Provided always, that the Board of Trade may from time to time make such regulations as they may think expedient for securing the safety of the public from personal injury or from fire or otherwise (e), and may from time to time amend or repeal any regulations which may be contained in any such licence, order, or special Act in relation thereto; and any regulations so made or amended by the Board of Trade shall, from and after the date thereof, have the like effect in every respect as though they had been originally inserted in the licence, order, or special Act authorising the undertaking, and every regulation so repealed shall, from and after the date thereof, be repealed accordingly, but such repeal shall not affect any liability or penalty incurred in respect thereof prior to the date of such repeal or any proceeding or remedy which might have been had in relation thereto.

Any local authority within any part of whose district electricity is authorised to be supplied under any licence, order, or special Act may, in addition to any regulations which may be made under the preceding provisions of this section for securing the safety of the public, from time to time make, rescind, alter, or repeal byelaws for further securing such safety; and there may be annexed to any breach of such byelaws such penalties to be recovered in a summary manner as they may think necessary: Provided always, that no such byelaws shall have any force or effect unless and until they have been confirmed by the Board of Trade and published in such manner as the Board of Trade may direct.

7. Any expenses incurred by a local authority under this Act, and not otherwise provided for, including any expenses incurred in connexion with the obtaining by them, or any opposition to the obtaining by any other local authority, company, or person, of any licence, order, or special Act under this Act, may be defrayed out of the local rate as defined in the schedule to this Act, and the local authority may from time to time cause such rates to be levied as may be necessary for the purpose of defraying such expenses; provided that where such local authority is a rural sanitary authority such expenses shall be deemed to be special expenses within the meaning of the Public Health Act, 1875.

8. A local authority authorised to supply electricity by any licence, order, or special Act may from time to time borrow money on such security, with such consent and subject to such provisions and restrictions with respect to borrowing and the repayment of loans as are in the schedule to this Act in that behalf mentioned, and the money so borrowed shall be deemed to be borrowed under the enactments subject to the provisions and restrictions of which it is borrowed, and the accounts of all receipts and expenditure by the local authority in pursuance of this Act, or any licence, order, or special Act, shall be subject to

45 & 46 Vict.  
c. 56.

Regulations  
to be inserted  
in licences,  
&c.

Expenses of  
local authority.

38 & 39 Vict.  
c. 55.

Power of local  
authority to  
borrow money.

(e) Regulations for securing the safety of the public, issued by the Bd. of Trade in 1889, are now in force.

45 & 46 Vict.  
c. 56.

38 & 39 Vict.  
c. 83.

such audit as is in the said schedule in that behalf mentioned: Provided always, that any moneys borrowed under this section by the local authority of any district to which the Local Loans Act, 1875, extends (*f*), may, if it is thought fit, be borrowed in manner provided by that Act; and in the construction of the said Act for the purposes of this Act the expression "prescribed" means prescribed by any conditions imposed by the authority whose consent is required to borrowing under this section.

Where any local authority is authorised by any Act to raise any money which they may be empowered to borrow for certain purposes by the issue of corporation or other stock, any money which a local authority may be authorised to borrow under this section may, if it is thought fit, be raised by them by the issue of such stock as aforesaid.

This section shall not apply to the mayor, commonalty, and citizens of the City of London or to the *Metropolitan Board of Works*, except in so far as the *Metropolitan Board of Works* (*g*) may be concerned in the borrowing of any money by any vestry or district board.

Accounts.

9. The undertakers shall on or before the 25th day of March in every year fill up an annual statement of accounts of the undertaking made up to the thirty-first day of December then next preceding; and such statement shall be in such form and shall contain such particulars and shall be published in such manner as may from time to time be prescribed in that behalf by the Board of Trade.

The undertakers shall keep copies of such annual statement at their office, and sell the same to any applicant at a price not exceeding one shilling a copy.

In case the undertakers make default in complying with the provisions of this section, they shall be liable to a penalty not exceeding forty shillings for each day during which such default continues.

General powers of undertakers under licence or provisional order.

10. The undertakers may, subject to and in accordance with the provisions and restrictions of this Act, and of any rules made by the Board of Trade in pursuance of this Act, and of any licence, order, or special Act authorising or affecting their undertaking, and for the purpose of supplying electricity, acquire such lands by agreement, construct such works, acquire such licences for the use of any patented or protected processes, inventions, machinery, apparatus, methods, materials, or other things, enter into such contracts, and generally do all such acts and things as may be necessary and incidental to such supply.

Power for local authority to contract in certain cases, and restrictions on assignments of powers, &c. of undertakers.

11. Any local authority who have obtained a licence, order, or special Act for the supply of electricity, may contract with any company or person for the execution and maintenance of any works needed for the purposes of such supply, or for the supply of electricity within any area mentioned in such licence, order, or special Act, or in any part of such area; but no local authority, company, or person shall by any contract or assignment transfer to any other company or person or divest themselves of any legal powers given to them, or any legal liabilities imposed on them by this Act, or by any licence, order, or special Act, without the consent of the Board of Trade.

Incorporation of certain provisions of Clauses Consolidation Acts.

12. The provisions of the following Acts shall be incorporated with this Act; that is to say—

- (1) The Lands Clauses Acts (*h*), except the enactments with respect to the purchase and taking of lands otherwise than by agreement, and except the enactments with respect to the entry upon lands by the promoters of the undertaking; and
- (2) The provisions of the Gasworks Clauses Act, 1847, with respect to breaking up streets for the purpose of laying pipes, and with respect to waste or misuse of the gas or injury to the pipes and other works (*i*), except so much thereof as relates to the use of any burner other than such as has been provided or approved of by the undertakers; and

10 & 11 Vict.  
c. 15.

(*f*) **The Local Loans Act, 1875**, provides regulations for the raising of loans by debentures or debenture stock by a local authority having power to raise a loan by the issue of debenture stock.

(*g*) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (*8*), *ante*, vol. i.

(*h*) **Lands Clauses Acts.**—See Cripps on the "Law of Compensation," and other treatises on the same subject, which is too long to be dealt with in this work.

(*i*) **Gasworks Clauses Act, 1847.**—As to breaking up streets, see secs. 6 to 12; and as to waste or misuse, see secs. 18 to 20, *post*, tit. "*Gas*."

(3) Sections thirty-eight to forty-two inclusive, and sections forty-five and forty-six, of the Gasworks Clauses Act, 1871 (*k*). 45 & 46 Vict. c. 56.

For the purposes of this Act, in the construction of all the enactments incorporated by this section "the special Act" means this Act inclusive of any licence, order, or special Act; and the "promoters" or "undertakers," and "the undertaking," as the case may be, mean the undertakers and the undertaking respectively under this Act. 34 & 35 Vict. c. 41.

In the construction of the said Lands Clauses Act, "land" includes easements in or relating to lands.

In the construction of the said Gasworks Clauses Act, 1847, and the Gasworks Clauses Act, 1871, the said Acts shall be construed as if "gas" meant "electricity," and as if "pipe" meant electric line, and "works" meant "works" as defined by this Act, and as if "the limits of the special Act" meant the area within which the undertakers are authorised to supply electricity under any licence, order, or special Act.

All offences, forfeitures, penalties, and damages under the said incorporated provisions of the said Acts or any of them may be prosecuted and may be recovered in manner by the said Acts respectively enacted in relation thereto, provided that sums recoverable under the provisions of section forty of the Gasworks Clauses Act, 1871, shall not be recovered as penalties, but may be recovered summarily as civil debts (*l*).

13. Nothing in this Act or in any Act incorporated therewith shall authorise or empower the undertakers to break up any street which is not repairable by such local authority, or any railway or tramway, without the consent of the authority, company, or person by whom such street, railway, or tramway is repairable, unless in pursuance of special powers in that behalf inserted in the licence, order, or special Act, or with the written consent of the Board of Trade, and the Board of Trade shall not in any case insert any such special powers in any licence or provisional order, or give any such consent until notice has been given to such authority, company, or person, by advertisement or otherwise, as the Board of Trade may direct, and an opportunity has been given to such authority, company, or person to state any objections they may have thereto.

Restriction on breaking up of private streets, railways, and tramways.

14. Notwithstanding anything in this Act or in any Act incorporated therewith, the undertakers shall not be authorised to place any electric line above ground, along, over, or across any street, without the express consent of the local authority, and the local authority may require the undertakers to forthwith remove any electric line placed by them contrary to the provisions of this section, or may themselves remove the same, and recover the expenses of such removal from the undertakers in a summary manner; and where any electric line has been placed above ground by the undertakers in any position, a court of summary jurisdiction, upon complaint made, if they are of opinion that such electric line is or is likely to become dangerous to the public safety, may, notwithstanding any such consent as aforesaid, make an order directing and authorising the removal of such electric line by such person and upon such terms as they may think fit.

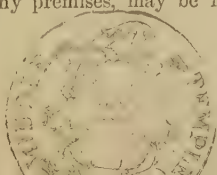
Restrictions as to above-ground works.

15. Subject to the provisions of this Act and of the licence, order, or special Act authorising them to supply electricity, and to any byelaws made under this Act, the undertakers may alter the position of any pipes or wires being under any street or place authorised to be broken up by them which may interfere with the exercise of their powers under this Act on previously making or securing such compensation to the owners of such pipes or wires, and on complying with such conditions as to the mode of making such alterations as may before the commencement of such alterations be agreed upon between the undertakers and owners, or in case of difference as may be determined in manner prescribed by the licence or provisional order authorising the undertakers to supply electricity

Power to undertakers to alter position of pipes and wires.

(*k*) **Gasworks Clauses Act, 1871.**—Sec. 38 imposes a penalty for injuring meters; secs. 39–42 provide for the recovery of charges; sec. 45 prescribes the mode of serving notices by the undertakers; and sec. 46 saves the jurisdiction of justices. See *post*, pp. 911 and 912.

(*l*) **Recovered summarily.**—The effect of this provision is that any charge due for the supply of electric light, or for the hire or fixing of a meter, or expenses incurred in cutting off the electric supply from any premises, may be recovered in a court of summary jurisdiction as a civil debt.





45 & 46 Vict.  
c. 56.

or where no such manner is prescribed as may be determined by arbitration, and any local or other public authority, company, or person may in like manner alter the position of any electric lines or works of the undertakers, being under any such street or place as aforesaid, which may interfere with the lawful exercise of any powers vested in such local or other public authority, company, or person in relation to such street or place, subject to the like provisions, conditions, and restrictions as are in this section contained with reference to the alteration of the position of any pipes or wires by the undertakers.

Clause for  
protection of  
canals.

16. If at any time after the undertakers have placed any works under, in, upon, over, along or across any canal, any person having power to construct docks, basins or other works upon any land adjoining to or near such canal, constructs any dock, basin or work on such land, but is prevented by the works of the undertakers from forming a communication for the convenient passage of vessels with or without masts between such dock, basin or other work, and such canal; or if the business of such dock, basin or other work is interfered with by reason or in consequence of any such works of the undertakers, then the undertakers at the request of such person, and on having reasonable facilities afforded them by him for placing works round such dock, basin or other work, under, in, upon, over, along or across land belonging to or under his control, shall remove and place their work accordingly. If any dispute arises between the undertakers and such person as to the facilities to be afforded to the undertakers, or as to the direction in which the works are to be placed, it shall be determined by arbitration.

Compensation for  
damage.

17. In the exercise of the powers in relation to the execution of works given them under this Act, or any licence, order, or special Act, the undertakers shall cause as little detriment and inconvenience and do as little damage as may be, and shall make full compensation to all bodies and persons interested for all damage sustained by them by reason or in consequence of the exercise of such powers (*m*), the amount and application of such compensation in case of difference to be determined by arbitration (*n*).

Undertakers  
not to prescribe  
special form of  
lamp or  
burner.

18. The undertakers shall not be entitled to prescribe any special form of lamp or burner to be used by any company or person, or in any way to control or interfere with the manner in which electricity supplied by them under this Act, and any licence, order, or special Act is used: Provided always that no local authority, company, or person shall be at liberty to use any form of lamp or burner or to use the electricity supplied to them for any purposes, or to deal with it in any manner so as to unduly or improperly interfere with the supply of electricity supplied to any other local authority, company, or person, by the undertakers, and if any dispute or difference arises between the undertakers and any local authority, company, or person entitled to be supplied with electricity under this Act, or any licence, order, or special Act, as to the matters aforesaid, such dispute or difference shall be determined by arbitration.

Obligation on  
undertakers  
to supply  
electricity.

19. Where a supply of electricity is provided in any part of an area for private purposes, then, except in so far as is otherwise provided by the terms of the licence, order, or special Act authorising such supply, every company or person within that part of the area shall, on application, be entitled to a supply on the same terms on which any other company or person in such part of the area is entitled under similar circumstances to a corresponding supply.

Charges for  
electricity.

20. The undertakers shall not, in making any agreements for a supply of electricity, show any undue preference to any local authority, company, or person, but, save as aforesaid, they may make such charges for the supply of electricity, as may be agreed upon, not exceeding the limits of price imposed by or in pursuance of the licence, order, or special Act authorising them to supply electricity.

(*m*) **Compensation for damage.**—This section applies only to damage caused by the execution of the works, and not to damage caused by their user when constructed. Where injury or a nuisance is caused by the user of the works the undertakers are liable at common law in an action for damages, and may be restrained by injunction from continuing the nuisance. *Shelfer v. City of London Electric Lighting Co.*, *Meux v. Same* (1895), 1 Ch. 287; 64 L. J. Ch. 216. See also *National Telephone Co. v. Baker*, *post*, p. 1289.

(*n*) **Arbitration.**—See sec. 28, *post*, 1289.

21. If any local authority, company, or person neglect to pay any charge for electricity or any other sum due from them to the undertakers in respect of the supply of electricity to such local authority, company, or person, the undertakers may cut off such supply, and for that purpose may cut or disconnect any electric line or other work through which electricity may be supplied, and may, until such charge or other sum, together with any expenses incurred by the undertakers in cutting off such supply of electricity as aforesaid, are fully paid, but no longer, discontinue the supply of electricity to such local authority, company, or person (o).

45 & 46 Vict.  
c. 56.

Recovery of  
charges, &c.

22. Any person who unlawfully and maliciously cuts or injures any electric line or work with intent to cut off any supply of electricity shall be guilty of felony, and be liable to be kept in penal servitude for any term not exceeding five years, or to be imprisoned with or without hard labour for any term not exceeding two years; but nothing in this section shall exempt a person from any proceeding for any offence which is punishable under any other provision of this Act, or under any other Act, or at common law, so that no person be punished twice for the same offence.

Injuring  
works with  
intent to cut  
off supply of  
electricity.

23. Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes, or uses any electricity shall be guilty of simple larceny and punishable accordingly.

Stealing  
electricity.

24. Any officer appointed by the undertakers may at all reasonable times enter any premises to which electricity is or has been supplied by the undertakers, in order to inspect the electric lines, meters, accumulators, fittings, works, and apparatus for the supply of electricity belonging to the undertakers, and for the purpose of ascertaining the quantity of electricity consumed or supplied, or where a supply of electricity is no longer required, or where the undertakers are authorised to take away and cut off the supply of electricity from any premises, for the purpose of removing any electric lines, accumulators, fittings, works, or apparatus belonging to the undertakers, repairing all damage caused by such entry, inspection, or removal.

Power to enter  
lands or  
premises for  
ascertaining  
quantities of  
electricity  
consumed, or  
to remove  
fittings, &c.

25. Where any electric lines, meters, accumulators, fittings, works, or apparatus belonging to the undertakers are placed in or upon any premises not being in the possession of the undertakers for the purpose of supplying electricity under this Act, or any licence, order, or special Act, such electric lines, meters, accumulators, fittings (p), works, or apparatus shall not be subject to distress or to the landlord's remedy for rent of the premises where the same may be, nor to be taken in execution under any process of a court of law or equity, or any proceedings in bankruptcy against the person in whose possession the same may be.

Electric lines,  
&c., not to  
be subject to  
distress in  
certain cases.

26. No alteration in any telegraph line of the Postmaster-General shall be made by the undertakers except subject to the provisions of the Telegraph Act, 1878.

The undertakers shall not in the exercise of the powers conferred by this Act, or by any licence, order, or special Act, lay down any electric line or do any other work for the supply of electricity whereby any telegraphic line of the Postmaster-General is or may be injuriously affected, and before any such electric line is laid down or work is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs or the laying of connexions with mains where the direction of the electric lines so laid down crosses the line of the Postmaster-General at right angles at the point of shortest distance and continues the same for a distance of six feet on each side of such point) the undertakers or their agents not more than twenty-eight nor less than seven clear days before commencing such work shall give written notice to the Postmaster-General specifying the course and nature of the work, including the gauge of any electric lines, and the undertakers and their agents shall conform with such reasonable requirements either general or special as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphs of the Postmaster-General from being injuriously affected by the said work.

Provision for  
protection of  
the Post-  
master-  
General.

41 & 42 Vict.  
c. 76.

(o) **Recovery of charges, &c.**—These are recoverable summarily as civil debts. See sec. 12 and note thereto, *ante*.

(p) **Fittings.**—A gas stove let for hire was held to be a "fitting for gas" within a similar exemption from distress contained in sec. 14 of the Gasworks Clauses Act, 1847 (10 & 11 Vict. c. 15). *Gaslight and Coke Co. v. Hardy*, 17 Q. B. D. 619; 56 L. J. Q. B. 168.

45 & 46 Vict.  
c. 56.

Any difference which arises between the Postmaster-General and the undertakers or their agents with respect to any requirements so made, shall be determined by arbitration.

In the event of any contravention of or wilful non-compliance with this section by the undertakers or their agents the undertakers shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues, or, if the telegraphic communication is wilfully interrupted, not exceeding fifty pounds for every day on which such interruption continues.

Provided that nothing in this section shall subject the undertakers or their agents to a fine under this section, if they satisfy the court having cognizance of the case that the immediate execution of the work was required to avoid an accident, or otherwise was a work of emergency, and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the work was done a notice of the execution thereof, stating the reason for executing the same without previous notice.

For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by a work if telegraphic communication by means of such line is, whether through induction or otherwise, in any manner affected by such work, or by any use made of such work.

For the purposes of this section, and subject as therein provided, sections two, seven, eight, nine, ten, eleven, and twelve of the Telegraph Act, 1878 (*g*), shall be deemed to be incorporated with this Act, as if the undertakers were undertakers within the meaning of those sections, without prejudice nevertheless to any operation which the other sections of the said Act would have had if this section had not been enacted.

**27.** [*Purchase of undertaking by local authority. Repealed and replaced by Electric Lighting Act, 1888, sec. 2, post.*]

Arbitration.

**28.** Where any matter is by this Act, or any licence, order, or special Act, directed to be determined by arbitration, such matter shall, except as otherwise expressly provided, be determined by an engineer or other fit person to be nominated as arbitrator by the Board of Trade on the application of either party, and the expenses of the arbitration shall be borne and paid as the arbitrator directs.

Any licence or provisional order granted under this Act shall be deemed to be a special Act within the meaning of the Board of Trade Arbitrations, &c. Act, 1874.

37 & 38 Vict.  
c. 40.

Power for  
Board of Trade  
to relieve gas  
undertakers  
from obligation  
to supply gas  
in certain  
cases.

**29.** Where a supply of electricity is authorised in any area by any licence, order, or special Act, and a supply of gas by any gas undertakers is also authorised within such area or any part thereof by any provisional order or special Act under the provisions of which such gas undertakers are under any general or limited obligation to supply gas upon demand, the Board of Trade may, upon the application of such gas undertakers, inquire into the circumstances of the case, and if they are satisfied that any specified part of such area is sufficiently supplied with electric light, and that the supply of gas in such specified part has ceased to be remunerative to the gas undertakers, and that it is just that such gas undertakers should be relieved from the obligation to supply gas upon demand as aforesaid, the Board of Trade may in their discretion make an order relieving the gas undertakers from such obligation, within such specified part of such area, either wholly or in part, and upon such terms and conditions as they may think proper; and from and after the date of such order

(*g*) **Telegraph Act, 1878.**—Sec. 2 contains definitions. Sec. 7 requires that where work proposed to be done in pursuance of a special Act of Parliament involves alteration in any telegraphic line the undertakers shall give not less than seven nor more than fourteen days' previous notice to the Postmaster-General, who may either make the alteration himself or require the undertakers to do so. Sec. 8 provides for compensation and fine for injury to any telegraphic line of the Postmaster-General and for interruption to telegraphic communication. Sec. 9 imposes a penalty for obstructing the Postmaster-General or his agents in placing, maintaining, altering, &c., any telegraphic line. Sec. 10 enables the Postmaster-General to recover fines and penalties summarily. Sec. 11 provides that legal proceedings may be instituted in the name of Her Majesty's Postmaster-General. Sec. 12 provides that notices may be in writing or print, and where given by any undertakers shall be sufficiently authenticated if purporting to be signed by their chairman, secretary, clerk, or other officer.



such gas undertakers shall be so relieved accordingly. All expenses of the Board of Trade in connexion with any such inquiry or order shall be borne and paid by the gas undertakers upon whose application the inquiry or order was made.

45 & 46 Vict.  
c. 56.

**30.** Not later than the first day of July in each year the Board of Trade shall lay before both Houses of Parliament a report respecting the applications to and proceedings of the Board of Trade under this Act during the year then last past.

Annual report  
by Board of  
Trade.

**31.** In this Act, unless the context otherwise requires, the expressions "local authority" and "local rate" mean, as respects each district set forth in the first column of the schedule to this Act annexed, the authority and rate mentioned opposite to that district in the second and third columns of that schedule; and such schedule, and the notes appended thereto, shall be of the same validity as if enacted in the body of the Act.

Definition of  
local authority,  
&c.

**32.** In this Act, unless the context otherwise requires—

The expression "electricity" means electricity, electric current, or any like agency :

Interpretation.

The expression "electric line" means a wire or wires, conductor, or other means used for the purpose of conveying, transmitting or distributing electricity with any casing, coating, covering, tube, pipe, or insulator enclosing, surrounding, or supporting the same, or any part thereof, or any apparatus connected therewith for the purpose of conveying, transmitting, or distributing electricity or electric currents :

The expression "works" means and includes electric lines, also any buildings, machinery, engines, works, matters, or things of whatever description required to supply electricity and to carry into effect the object of the undertakers under this Act :

The expression "company" means any body of persons corporate or unincorporate :

The expression "Lands Clauses Acts" means the Lands Clauses Consolidation Acts, 1845, 1860, and 1869 :

8 & 9 Vict.  
c. 18.

The expression "street" includes any square, court, or alley, highway, lane, road, thoroughfare, or public passage, or place, within the area in which the undertakers are authorised to supply electricity by this Act or any licence, order, or special Act :

23 & 24 Vict.  
c. 106.  
32 & 33 Vict.  
c. 18.

The expression "telegram" has the same meaning as in the Telegraph Act, 1869 (*r*).

32 & 33 Vict.  
c. 73.

**33.** Nothing in this Act shall limit or interfere with the rights of any owner, lessee, or occupier of any mines or minerals lying under or adjacent to any road along or across which any electric line shall be laid to work such mines and minerals.

For the pro-  
tection of  
mines.

**34.** Nothing in this Act shall exempt the undertakers or their undertaking from the provisions of any general Act relating to the supply of electricity which may be passed in this or any future session of Parliament.

Provision as to  
general Acts.

**35.** Nothing in this Act or in any licence, order, or special Act, shall affect the exclusive privileges conferred upon the Postmaster-General by the Telegraph Act, 1869 (*s*), or authorise or enable any local authority, company, or person to transmit any telegram or to perform any of the incidental services of receiving, collecting, or delivering telegrams, or give to any local authority, company, or person, any power, authority, or facility of any kind whatever, in connexion with the transmission of telegrams, or the performance of any of the incidental services of receiving, collecting, or delivering telegrams.

Saving for  
privileges of  
Postmaster-  
General.

**36.** [*Application of Act to Scotland.*]

**37.** [*Application of Act to Ireland.*]

(*r*) **Telegram.**—"The term 'telegram' shall mean any message or other communication transmitted or intended for transmission by a telegraph." Telegraph Act, 1869, sec. 3. A communication through a telephone is a telegram within this definition. *Att.-Gen. v. Edison Telephone Co. of London*, 6 Q. B. D. 244; 50 L. J. Q. B. 145.

(*s*) **Exclusive privilege of Postmaster-General.**—By the Telegraph Act, 1869, secs. 4 and 5, the exclusive privilege is conferred on the Postmaster-General of transmitting telegrams within the United Kingdom, except, *inter alia*, telegrams for which no charge is made, transmitted by a telegraph maintained or used solely for the private use of a corporation, company, or person.



## ELECTRIC LIGHTING ACT, 1888.

**51 & 52 Vict. c. 12.** An Act to amend the Electric Lighting Act, 1882.  
[28th June, 1888]

**1.** Notwithstanding anything in the Electric Lighting Act, 1882, no provisional order authorising the supply of electricity by any undertakers within the district of any local authority shall be granted by the Board of Trade except with the consent of such local authority, unless the Board of Trade, in any case in which the consent of such local authority is refused, are of opinion that, having regard to all the circumstances of the case, such consent ought to be dispensed with, and in such case they shall make a special report, stating the grounds upon which they have dispensed with such consent (z). The grant of authority to any undertakers to supply electricity within any area, whether granted by licence or by means of a provisional order, shall not in any way hinder or restrict the granting of a licence or provisional order to the local authority, or to any other company or person within the same area.

Consent of local authority generally required to provisional order for supply of electricity.

**2.** Section twenty-seven of the Electric Lighting Act, 1882, is hereby repealed, and in lieu thereof the following provisions shall have effect: that is to say—

Repeal of 45 & 46 Vict. c. 56. s. 27.

Where any undertakers are authorised by a provisional order or special Act to supply electricity within any area, any local authority within whose jurisdiction such area or any part thereof is situated may, within six months after the expiration of a period of forty-two years, or such shorter period as is specified in that behalf in the provisional order or in the special Act, from the date of the passing of the Act confirming such provisional order, or of such special Act, and within six months after the expiration of every subsequent period of ten years, or such shorter period as is specified in that behalf in the provisional order or in the special Act, by notice in writing require such undertakers to sell, and thereupon such undertakers shall sell to them their undertaking, or so much of the same as is within such jurisdiction, upon terms of paying the then value of all lands, buildings, works, materials, and plant of such undertakers suitable to and used by them for the purposes of their undertaking within such jurisdiction, such value to be in case of difference determined by arbitration: Provided that the value of such lands, buildings, works, materials, and plant shall be deemed to be their fair market value at the time of the purchase, due regard being had to the nature and then condition of such buildings, works, materials, and plant, and to the state of repair thereof, and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same to the purposes of the undertaking, and, where a part only of the undertaking is purchased, to any loss occasioned by severance; but without any addition in respect of compulsory purchase, or of goodwill, or of any profits which may or might have been or be made from the undertaking, or of any similar considerations (a). The Board of Trade may determine any other questions which may arise in relation to such purchase, and may fix the date from which such purchase is to take effect, and from and after the date so fixed, or such other date as may be agreed upon between the parties, all lands, buildings, works, materials, and plant so purchased as aforesaid shall vest in the local authority which has made the purchase, freed from any debts, mortgages, or similar obligations of such undertakers or attaching to the undertaking, and the powers of such undertakers in relation to the supply of electricity under this Act or such provisional order or special Act as aforesaid within such area or part thereof as aforesaid shall absolutely cease and determine, and shall vest in the local authority aforesaid.

Purchase of undertaking by local authority.

**3.** Notwithstanding anything in the last preceding section contained, the Board of Trade may by any provisional order to be made by them under the Electric Lighting Act, 1882, if they think fit, vary the terms upon which any

Power to vary terms of sale contained in last section.

(z) **Consent of local authority.**—This provision amends sec. 4 of the Electric Lighting Act, 1882, *ante*.

(a) **Purchase by local authority.**—Compare this section with the provision for the purchase of tramways by local authorities contained in sec. 43 of the Tramway Act, 1870, *post*, and see cases cited in note thereto.



51 & 52 Vict.  
c. 12.

Restrictions as  
to placing of  
electric lines,  
&c.

local authority may require the undertakers to sell, and upon which the undertakers shall be required to sell to such local authority their undertaking or so much of the same as is within the jurisdiction of such local authority under the said section, in such manner as may have been agreed upon between such local authority and the undertakers.

4.—(1) Where in any case any electric line or other work may have been laid down or erected in, over, along, across, or under any street, for the purpose of supplying electricity, or may have been laid down or erected in any other position for such purpose in such a manner as not to be entirely enclosed within any building or buildings, or where any electric line or work so laid down or erected may be used for such purpose otherwise than under and subject to the provisions of a licence, order, or special Act, the Board of Trade, if they think fit, may, by notice in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade, to be served upon the body or person owning or using or entitled to use such electric line or work, require that such electric line or work shall be continued and used only in accordance with such conditions and subject to such regulations for the protection of the public safety and of the electric lines and works of the Postmaster-General, and of other electric lines and works lawfully placed in any position and used for telegraphic communication, as the Board of Trade may by or in pursuance of such notice prescribe (*b*), and in case of non-compliance with the said regulations then the Board of Trade may require such body or person to remove such electric line or work: Provided that nothing in this sub-section shall apply to any electric line or work laid down or erected by any body or person for the supply of electricity generated upon any premises occupied by such body or person to any other part of such premises.

(2) Where in any case any electric line or work is used for the supply of electricity in such a manner as to injuriously affect any telegraphic line of the Postmaster-General, or to affect the telegraphic communication through any such line, the Postmaster-General may, by notice to be served upon the body or person owning or using or entitled to use such electric line or work, require that such supply be continued only in accordance with such conditions and regulations for the protection of the telegraphic lines of the Postmaster-General and the telegraphic communication through the same as he may by or in pursuance of such notice prescribe, and in default of compliance with such conditions and regulations the Postmaster-General may require that the supply of electricity through such electric line or work shall be forthwith discontinued: Provided that nothing in this sub-section shall apply to the supply of electricity through any electric line or work laid down or erected under and subject to the provisions of any licence, order, or special Act, or which may be used in accordance with any conditions or regulations prescribed by the Board of Trade by or in pursuance of any notice given by them under this section.

(3) If any body or person fails to comply with the requirements of any notice which may be served upon them or him under this section, such body or person shall be liable to a penalty not exceeding twenty pounds for every such offence, to be recovered summarily, and any court of summary jurisdiction, on complaint made, may make an order directing and authorising the removal of any electric line or work specified in such notice by such person and upon such terms as they may think fit.

(4) Any notice authorised to be served under this section upon any body or person may be served by the same being addressed to such body or person, and being left at or transmitted through the post to any office of such body or the usual or last known place of abode of such person; and any notice so served by post shall be deemed to have been served at the time when the letter containing the notice would be delivered in the usual course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post.

(5) In this section terms and expressions to which by the Electric Lighting Act, 1882, meanings are assigned shall have the same respective meanings, provided that the term "street" shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place whatever, and the

45 & 46 Vict.  
c. 56.

(*b*) **Regulations** for the protection of the public safety and of the lines and works of the Postmaster-General issued, by the Board of Trade in 1889, are now in force.

expression "telegraphic line" shall have the meaning assigned to it by the Telegraphic Act, 1878(c). 51 & 52 Vict.  
c. 12.

(6) Nothing in this section shall apply to any electric line or work of the Postmaster-General, or to any other electric line or work used or to be used solely for telegraphic purposes, except by way of protection, as in this section provided. 41 & 42 Vict.  
c. 76.

5. This Act may be cited as the Electric Lighting Act, 1888; and the Electric Lighting Act, 1882, and this Act shall be read and construed together as one Act, and may be cited together for all purposes as the Electric Lighting Acts, 1882 and 1888. Short title.

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(c) "**Telegraph line** means telegraphs, posts, and any work (within the meaning of the Telegraph Act, 1863), and also any cables, apparatus, pneumatic or other tube, pipe, or thing whatsoever used for the purpose of transmitting telegraphic messages, or maintaining telegraphic communication, and includes any portion of a telegraphic line as defined by this Act." Telegraph Act, 1878, sec. 2. A telephone wire is within the definition. *Att.-Gen. v. Edison Telephone Co. of London*, ante, p. 805.

## EXPLOSIVES.

## EXPLOSIVES ACT, 1875.

**38 Vict. c. 17.** An Act to amend the Law with respect to manufacturing, keeping, selling, carrying, and importing Gunpowder, Nitro-glycerine, and other explosive substances. [14th June, 1875]

*Preliminary.*

Short title.

1. This Act may be cited as the Explosives Act, 1875.

2. [*Commencement of Act. Rep. 56 & 57 Vict. c. 54. Statute Law Revision.*]

Substances  
to which  
this Act  
applies.

3. This Act shall apply to gunpowder and other explosives as defined by this section (a).

The term "explosive" in this Act—

(1) Means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect; and

(2) Includes fog-signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined.

## PART I.

## LAW RELATING TO GUNPOWDER.

*General Law as to Manufacture and Keeping of Gunpowder.*

Gunpowder  
to be manufac-  
tured only at  
factory law-  
fully existing  
or licensed  
under this  
Act.

4. The manufacture of gunpowder shall not, nor shall any process of such manufacture, be carried on except at a factory for gunpowder either lawfully existing or licensed for the same under this Act.

Provided that nothing in this section shall apply to the making of a small quantity of gunpowder for the purpose of chemical experiment and not for practical use or for sale.

If any person manufactures gunpowder or carries on any process of such manufacture at any place at which he is not allowed by this section so to do, he shall be deemed to manufacture gunpowder at an unauthorised place.

Where gunpowder is manufactured at an unauthorised place—

1. All or any part of the gunpowder or the ingredients of gunpowder which may be found either in or about such place or in the possession or under the control of any person convicted under this section, may be forfeited; and

2. The person so manufacturing shall be liable to a penalty not exceeding one hundred pounds a day for every day during which he so manufactures.

Gunpowder  
(except for  
private use)  
to be kept  
only in

5. Gunpowder shall not be kept at any place except as follows; that is to say—

(1) Except in the factory (either lawfully existing or licensed for the same under this Act) in which it is manufactured; or

(a) **As defined by this section.**—For exemptions and savings see sec. 97 *et seq.*, *post*. The list of explosives defined by this section may be extended by Order in Council, sec. 104, *post*. By O. in C. No. 14, Dec. 29, 1887 (*Lond. Gaz.*, Jan. 3, 1888, p. 1), the following are declared to be explosives under the Act:—

(1) Picric acid when in process of manufacture or storage, except (a) when wholly in solution, or (b) which is being manufactured or stored in a place exclusively appropriate to the manufacture or storage of picric acid, and in such a manner as effectually to prevent it from coming in contact with any substance capable of forming with picric acid an explosive mixture or compound, or with any detonator, or other article capable of exploding picric acid, or with any fire or light capable of igniting it.

(2) Picrates and mixtures of picric acid with any basic metallic oxide or oxidising agent, or with any other substance capable of forming with picric acid an explosive mixture or compound, unless such picrates or mixtures be wholly in solution.



- (2) Except in a magazine or store for gunpowder either lawfully existing or licensed under this Act for keeping gunpowder; or

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- (3) Except in premises registered under this Act for keeping gunpowder.

existing or  
new magazine  
or store, or in  
registered  
premises.

Provided that this section shall not apply—

- (1) To a person keeping for his private use and not for sale gunpowder to an amount not exceeding on the same premises thirty pounds; or
- (2) To the keeping of any gunpowder by a carrier or other person for the purpose of conveyance, when the same is being conveyed or kept in accordance with the provisions of this Act with respect to the conveyance of gunpowder.

Any gunpowder kept in any place other than as above in this section mentioned shall be deemed to be kept in an unauthorised place.

Where any gunpowder is kept in an unauthorised place—

- (1) All or any part of the gunpowder found in such place may be forfeited; and
- (2) The occupier of such place, and also the owner of, or other person guilty of keeping the gunpowder, shall each be liable to a penalty not exceeding two shillings for every pound of gunpowder so kept.

*Licensing of Factories and Magazines for Gunpowder.*

6. A new factory or magazine for gunpowder shall not be established except on the site and in the manner specified in a licence for the same granted under this Act.

Application  
for licence  
for new  
factory or  
magazine.

An applicant for such a licence shall submit to the Secretary of State the draft of a licence accompanied by a plan (drawn to scale) of the proposed factory or magazine, and the site thereof (which plan shall be deemed to form part of and to be in this Act included in the expression “the licence”).

The draft licence shall contain the terms which the applicant proposes to have inserted in the licence, and shall specify such of the following matters as are applicable; namely,

- (a) The boundaries of the land forming the site of the factory or magazine and either any belt of land surrounding the site which is to be kept clear, and the buildings and works from which it is to be kept clear, or the distances to be maintained between the factory or magazine, or any part thereof, and other buildings and works; and
- (b) The situation, character, and construction of all the mounds, buildings, and works on or connected with the factory or magazine, and the distances thereof from each other; and
- (c) The nature of the processes to be carried on in the factory and in each part thereof, and the place at which each process of the manufacture, and each description of work connected with the factory or magazine, is to be carried on, and the places in the factory or magazine at which gunpowder and any ingredients of gunpowder, and any articles liable to spontaneous ignition, or inflammable or otherwise dangerous, are to be kept; and
- (d) The amount of gunpowder and of ingredients thereof wholly or partly mixed to be allowed at the same time in any building or machine or any process of the manufacture or within a limited distance from such building or machine, having regard to the situation and construction of such building, and to the distance thereof from any other building or any works; and
- (e) The situation, in the case of a factory, of each factory magazine, and in the case of another magazine, of each building forming part of such magazine in which gunpowder is to be kept, and the maximum amount of gunpowder to be kept in each factory magazine, and in each such building as aforesaid; and
- (f) The maximum number of persons to be employed in each building in the factory; and
- (g) Any special terms which the applicant may propose by reason of any special circumstances arising from the locality, the situation or construction of any buildings or works, or the nature of any process, or otherwise.

The Secretary of State, after examination of the proposal, may reject the application altogether or may approve of the draft licence, with or without modification or addition, and grant to the applicant permission to apply to the local authority for their assent to the establishment of the factory or magazine on the proposed site.

38 Vict. c. 17.

Application  
for assent of  
local authority  
to site of new  
factory or  
magazine.

7. The local authority, upon application being made for their assent to the establishment of a new factory or magazine on the proposed site, shall cause notice to be published by the applicant in manner directed by this Act of the application and of the time and place at which they will be prepared to hear the applicant, and any persons objecting to such establishment who have not less than seven clear days before the day of hearing sent to the clerk of the local authority and to the applicant notice of their intention to appear and object, with their name, address, and calling, and a short statement of the grounds of their objection.

Upon the hearing of the application, or any adjournment thereof, the local authority may dissent altogether from the establishment of such new factory or magazine on the proposed site, or assent thereto, either absolutely or on any conditions requiring additional restrictions or precautions.

Where the site of the proposed factory or magazine is situate within or within one mile of the limits of the jurisdiction of any urban sanitary authority, or of any harbour authority, the applicant shall serve on such authority, if they are not the local authority, notice of the application and of the time and place of hearing fixed by the local authority.

The said notices shall be published and served by the applicant not less than one month before the hearing.

The local authority shall fix the time and place of hearing as soon as practicable after application made to them, and the time so fixed shall be as soon as practicable after the expiration of the said month from the publication and service of the notices by the applicant, and their final decision shall be given as soon as practicable after the expiration of the said month.

The place so fixed shall be situate within the jurisdiction of the local authority, or within a convenient distance of the limits of that jurisdiction.

The costs of any objections which the local authority may deem to be frivolous shall be ascertained by an order made by the local authority, and shall be a debt due from the objector to the applicant, of which such order shall be conclusive evidence.

Where the site of the proposed factory or magazine is situate partly within the jurisdiction of one local authority and partly within the jurisdiction of another, the assent of both local authorities shall be applied for in manner provided by this Act.

Grant and  
confirmation  
of licence.

8. If on the hearing of the application for the establishment of a factory or magazine the local authority assent thereto either absolutely or on conditions submitted to by the applicant, the applicant shall be entitled to the licence applied for in accordance with the draft approved by the Secretary of State, with the addition (if the assent was on conditions) of the additional restrictions and precautions required by those conditions.

If the local authority assent on any conditions not submitted to by the applicant, or dissent, the applicant may appeal to the Secretary of State, giving notice of such appeal to the local authority, and requiring them to state in writing their reasons for such conditions or dissent; and the Secretary of State, after considering the reasons (if any) so stated, and after such inquiry, local or other, as he may think necessary, may if the local authority dissented, refuse the licence, or may in either case grant the licence applied for in accordance with the draft licence either as previously approved by him, or with such modifications and additions as he may consider required to meet the reasons (if any) so stated by the local authority.

The Secretary of State, when satisfied that the factory or magazine is sufficiently completed according to the licence to justify the use thereof, shall confirm the licence, but until so confirmed the licence shall not come into force.

The land forming the site bounded as described in the licence shall, with every mound, building, and work thereon for whatever purpose, be deemed, for the purposes of this Act, to be the factory or magazine referred to in the licence.

*Regulation of Factories and Magazines for Gunpowder.*

Regulation of  
factories and  
magazines for  
gunpowder.

9. In every gunpowder factory and magazine—

- (1) The factory or magazine, or any part thereof, shall not be used for any purpose not in accordance with the licence; and
- (2) The terms of the licence shall be duly observed, and the manufacture or keeping or any process in or work connected with the manufacture or

keeping of gunpowder shall not be carried on except in accordance with those terms; and 38 Vict. c. 17.

- (3) The factory or magazine and every part thereof shall be maintained in accordance with the licence; and any material alteration in the factory or magazine by enlarging or adding to the site, or by externally enlarging or adding to any building, or by altering any mound otherwise than by enlargement, or by making any new work, shall not be made except in pursuance of an amending licence granted under this Act.

In the event of any breach (by any act or default) of this section in any factory or magazine,

- (a) All or any part of the gunpowder or ingredients thereof in respect to which, or being in any building or machine in respect to which the offence was committed, may be forfeited; and  
 (b) The occupier shall be liable to a penalty not exceeding in the case of the first offence fifty pounds, and in the case of a second or any subsequent offence one hundred pounds, and in addition fifty pounds for every day during which such breach continues.

The occupier of a factory shall not be deemed guilty of a breach of this section for using in a case of emergency, or temporarily, one building or part of a building in which any process of the manufacture is, under the terms of the licence, carried on, for another process of the manufacture, if he do not carry on in such building or part more than one process at the same time, and if the quantity of gunpowder or ingredients thereof in such building or part do not exceed the quantity allowed to be therein, or any less quantity allowed to be in the building or part of a building in which such other process is usually carried on; and if upon such use being continued after the lapse of twenty-eight days from the first beginning of such use he send notice of such use to a Government inspector, and the Government inspector do not require the discontinuance of such use.

10. In every gunpowder factory and magazine the following general rules shall be observed:

General rules  
for factories  
and magazines.

- (1) In a factory every factory magazine, and in any other magazine every building in which gunpowder is kept, shall be used only for the keeping of gunpowder, and receptacles for or tools or implements for work connected with the keeping of such gunpowder; and  
 (2) The interior of every building in which any process of the manufacture is carried on or in which gunpowder or any ingredients thereof, either mixed or partially mixed, are kept, or in the course of manufacture are liable to be (in this Act referred to as a danger building), and the benches, shelves, and fittings in such building (other than machinery) shall be so constructed or so lined or covered as to prevent the exposure of any iron or steel in such manner, and the detaching of any grit, iron, steel, or similar substance in such manner, as to come into contact with the gunpowder or ingredients thereof in such building, and such interior, benches, shelves, and fittings shall, so far as is reasonably practicable, be kept free from grit and otherwise clean; and  
 (3) Every factory magazine and expense magazine in a factory, and every danger building in a magazine, shall have attached thereto a sufficient lightning conductor, unless, by reason of the construction by excavation or the position of such magazine or building, or otherwise, the Secretary of State considers a conductor unnecessary, and every danger building in a factory shall, if so required by the Secretary of State, have attached thereto a sufficient lightning conductor; and  
 (4) Charcoal, whether ground or otherwise, and oiled cotton, oiled rags, and oiled waste, and any articles whatever liable to spontaneous ignition, shall not be taken into any danger building, except for the purpose of immediate supply and work or immediate use in such building, and upon the cessation of such work or use shall be forthwith removed; and  
 (5) Before repairs are done to or in any room in or other part of a danger building, that room or part shall, so far as practicable, be cleaned by the removal of all gunpowder, and wholly or partly mixed ingredients thereof, and the thorough washing out of such room or part; and such room or part of the building after being so cleaned shall not be deemed to be a danger building within the meaning of these rules until gunpowder or the wholly or partly mixed ingredients thereof are again taken into it; and



38 Vict. c. 17.

- (6) There shall be constantly kept affixed in every danger building, either outside or inside, in such manner as to be easily read, a statement of the quantities of gunpowder or ingredients allowed to be in the building, and a copy of these rules, and of any other part of this Act required by the Secretary of State to be affixed, and of such part of the licence and special rules made under this Act as apply to the building; and with the addition in a factory of the name of the building, or words indicating the purpose for which it is used; and
- (7) All tools and implements used in any repairs to or in a danger building shall be made only of wood or copper or brass or some soft metal or material, or shall be covered with some safe and suitable material; and
- (8) Due provision shall be made, by the use of suitable working clothes without pockets, suitable shoes, searching, and otherwise, or by some of such means, for preventing the introduction into any danger building of fire, lucifer matches, or any substance or article likely to cause explosion or fire, and for preventing the introduction of any iron, steel, or grit into any part of a danger building where it would be likely to come into contact with gunpowder or the wholly or partly mixed ingredients thereof; but this rule shall not prevent the introduction of an artificial light of such construction, position, or character as not to cause any danger of fire or explosion; and
- (9) No person shall smoke in any part of the factory or magazine, except in such part (if any) as may be allowed by the special rules; and
- (10) Any carriage, boat, or other receptacle in which gunpowder, or the wholly or partly mixed ingredients thereof, are conveyed from one building to another in a factory or magazine, or from any such building to any place outside of such factory or magazine, shall be constructed without any exposed iron or steel in the interior thereof, and shall contain only the gunpowder and ingredients, and shall be closed or otherwise properly covered over; and the gunpowder and ingredients shall be so conveyed with all due diligence, and with such precautions and in such manner as will sufficiently guard against any accidental ignition; and
- (11) A person under the age of sixteen years shall not be employed in or enter any danger building, except in the presence and under the supervision of some grown up person; and
- (12) In a factory the ingredients in course of manufacture into gunpowder shall be removed with all due diligence from each working building so soon as the process connected with those ingredients which is carried on in such building is completed, and all finished gunpowder shall with all due diligence either be removed to a factory magazine, or sent away immediately from the factory, and such ingredients and gunpowder shall be loaded and unloaded with all due diligence; and
- (13) In a factory all ingredients to be made or mixed into gunpowder shall, before being so made or mixed, be carefully sifted, for the purpose of removing therefrom, so far as practicable, all dangerous foreign matter.

The Secretary of State may, from time to time, by order, make, and when made rescind and alter, such modifications in the foregoing general rules as may appear to him to be necessary for adapting the same to floating magazines (b), and such modifications shall have effect as if they were contained in this section.

In the event of any breach (by any act or default) of the general rules in any factory or magazine—

- (a) All or any part of the gunpowder or ingredients thereof in respect to which, or being in any building or machine in respect to which, the offence was committed, may be forfeited; and
- (b) The occupier shall be liable to a penalty not exceeding ten pounds, and in addition (in the case of a second offence) ten pounds for every day during which such breach continues.

Special rules  
for regulation  
of workmen in  
factory or  
magazine.

11. Every occupier of a gunpowder factory or magazine shall, with the sanction of the Secretary of State, make special rules for the regulation of the persons managing or employed in or about such factory or magazine, with a view to secure the observance of this Act therein, and the safety and proper discipline of the said persons and the safety of the public.

(b) **Floating magazines.**—The orders of the Secretary of State under this section, as to floating magazines, are No. 1 for gunpowder, and No. 2 for other explosives, dated Nov. 1875 (*Lond. Gaz.*, Nov. 30th, 1875, pp. 6054–5).

There may be annexed to any breach of special rules made in pursuance of this section such penalties, not exceeding forty shillings for each offence, as may be deemed just. 38 Vict. c. 17.

The occupier may, and if required by the Secretary of State shall, with the sanction of the Secretary of State, repeal, alter, or add to any special rules made in pursuance of this section.

If an occupier is required by the Secretary of State to make, repeal, alter, or add to any rules under this section, and fail within three months after such requisition to comply therewith to the satisfaction of the Secretary of State, the Secretary of State may make, repeal, alter, or add to the special rules, and anything so done by the Secretary of State shall have effect as if done by the occupier with the sanction of the Secretary of State.

If the occupier feel aggrieved by any such requisition, or by anything so done by the Secretary of State, he may, after receiving such requisition or notice of the same being so done, require the matter to be referred to arbitration in manner provided by this Act.

*Supplemental as to Factories and Magazines for Gunpowder.*

12. Where the occupier of any gunpowder factory or magazine desires that any alteration should be made in the terms of his licence, or any material alteration made in the factory or magazine by enlarging or adding to the site or by externally enlarging or adding to any building, or by altering any mound otherwise than by enlargement, or by making any new work, he may apply for an amending licence. Alteration of terms of licence and enlargement of factory or magazine.

If he satisfy the Secretary of State that the alteration may be properly permitted, having regard to the safety of the persons employed in the factory or magazine, and will not materially either increase the danger to the public from fire or explosion, or diminish the distance of any danger building in the factory or magazine from any building or work outside and in the neighbourhood of the factory or magazine, or increase the amount of gunpowder allowed to be kept in the factory magazine, or in any building in the magazine, the Secretary of State may grant the amending licence of his own authority, but, save as aforesaid, the provisions of this Act with respect to the application for and grant of a new licence shall apply to such amending licence.

13. A gunpowder factory or magazine licence shall not be avoided by any change in the occupier of the factory or magazine; but notice of the name, address, and calling of the new occupier shall be sent to the Secretary of State within three months after the change, and in default such new occupier shall be liable to a penalty not exceeding twenty shillings for every week during which such default continues. Devolution and determination of licence.

A factory or magazine licence shall be determined by a discontinuance of the business carried on in pursuance of any such licence if such discontinuance continues for a period of two years or more, or if the factory or magazine is used for any purpose not authorised by the licence:

Provided that if the occupier sends to the Secretary of State, and publishes in manner directed by the Secretary of State, a notice to the effect that the right to the factory or magazine licence is not intended to be surrendered, the licence shall not be determined until after the expiration of five years after the first discontinuance of the business, whether the factory or magazine has or has not been used for any purpose not authorised by the licence.

*Application of Act to existing Factories and Magazines for Gunpowder.*

14. A factory or magazine for gunpowder used at the time of the passing of this Act shall not be deemed to be a lawfully existing factory or magazine within the meaning of this Act unless the occupier thereof apply for and obtain in manner provided by this Act a certificate (in this Act referred to as a continuing certificate) in respect of such factory or magazine. Continuing certificate for existing factories and magazines.

The occupier desirous of obtaining such certificate shall, before the expiration of three months after the commencement of this Act, send to the Secretary of State an application for such certificate, stating his name, address, and calling, and the situation of his factory or magazine, and accompanied with such particulars respecting the factory or magazine and the site thereof, and the mounds, buildings, and works thereon or connected therewith, and such copies of any

38 Vict. c. 17. plans in the possession of the occupier, as the Secretary of State may deem necessary for enabling him to make out the certificate.

The Secretary of State upon receiving such application shall grant the continuing certificate for the factory or magazine to which the application relates, and shall insert therein, by reference to a plan (which shall be deemed part of the certificate) or otherwise, such particulars as he may consider sufficient to identify the factory or magazine and indicate the site and all the existing mounds, buildings, and works thereon or connected therewith: the plan so referred to may be either the plan sent by the occupier or such other plan as the Secretary of State may cause to be made for the purpose.

The continuing certificate shall specify the maximum amount of gunpowder to be kept if the certificate is for a factory in each factory magazine, or in all the factory magazines of the factory, and if for a magazine in each building in the magazine, or in all the buildings of the magazine, and the amount so specified, where the maximum amount so to be kept is at the passing of this Act limited by any Act or by licence or otherwise, shall be that amount, and where there is no such limitation, shall be the maximum amount which the factory magazine, or all the factory magazines of the factory, or the building or all the buildings of the magazine, was or were capable of holding on the first day of January one thousand eight hundred and seventy-five.

The regulations in part one of the first schedule to this Act shall be deemed to form part of the terms of a continuing certificate for a factory.

The land forming the site bounded as described in the certificate shall, with every mound, building, and work thereon, for whatever purpose, be deemed, for the purpose of this Act, to be the factory or magazine referred to in the certificate.

Where a licence has been obtained before the twenty-fifth day of February one thousand eight hundred and seventy-five, for a factory or magazine for gunpowder, and such factory or magazine has not been completed before the passing of this Act, such factory or magazine shall be deemed to be, for the purposes of this section, a factory or magazine for gunpowder used at the time of the passing of this Act:

Provided that—

- (1) The particulars to be stated in the continuing certificate shall, as regards such mounds, buildings, and works as are not completed at the date of the certificate, relate to the same as designed on the commencement of the construction of the factory or magazine; and
- (2) The maximum amount of gunpowder to be specified in the continuing certificate as being allowed to be kept in any building shall, subject to the provisions of any Act or licence, be the maximum amount which such building was designed on the commencement of the building thereof to hold, or such less amount as it is completed for holding at the time of the passing of this Act.

For the purposes of this Act, a continuing certificate shall (save as otherwise expressly provided) be deemed to be a licence, and the factory or magazine, as the case may be, mentioned therein to be a factory or magazine licensed under this Act, and the provisions of this Act shall be construed accordingly.

Provided that—

- (1) It shall not be necessary in any case to apply for the assent of the local authority to an amending licence for an alteration in the terms of such certificate, or for an alteration in the factory or magazine; and
- (2) Such factory or magazine, if the certificate is determined by the discontinuance of the business carried on therein, shall cease to be deemed an existing factory or magazine.

The occupier of any lawfully existing factory or magazine may, until the expiration of the time within which he is required by this section to send to the Secretary of State an application for a continuing certificate, and if he has sent such an application as is required by this section may, until he obtains such certificate, carry on his business in such factory or magazine in like manner as if this Act had not passed.

*Consumers' Stores for Gunpowder.*

*Licensing and Regulation of Stores.*

Store licence  
to be obtained

15. Any person may apply for a licence for a gunpowder store to the local authority at the time and place appointed by such authority, stating his name,



address, and calling, the proposed site and construction of the store and the amount of gunpowder he proposes to store therein; and the local authority shall, as soon as practicable, if the proposed site, construction of the store, and amount of gunpowder are in accordance with the Order in Council hereinafter mentioned, grant to the applicant, on payment of such fee, not exceeding five shillings, as may be fixed by that authority, the licence applied for.

38 Vict. c. 17.

from local authority.

16. Her Majesty may from time to time, by Order in Council made on the recommendation of the Secretary of State—

- (1) Regulate the construction and materials and fittings of gunpowder stores; and
- (2) Prescribe the buildings and works from which gunpowder stores are to be separated and the distances by which they are to be separated; and
- (3) Prescribe the maximum amount of gunpowder, not exceeding two tons, to be kept in stores, graduated according to their construction and situation and their distance from the said buildings and works.

Order in Council prescribing situation and construction of stores (c).

Provided that an order under this section shall not require the removal of any building lawfully in use at the date of the making of such order.

17. In every gunpowder store the following general rules shall be observed; that is to say—

General rules for stores.

- (1) The provisions of an Order in Council relating to stores, so far as they apply to such store, shall be duly observed;
- (2) There shall not be at the same time in the store an amount of gunpowder exceeding the amount specified in the licence; and
- (3) The store shall be used only for the keeping of gunpowder, and receptacles for or tools or implements for work connected with the keeping of such gunpowder; and
- (4) The interior of the store, and the benches, shelves, and fittings therein, shall be so constructed or so lined or covered as to prevent the exposure of any iron or steel and the detaching of any grit, iron, steel, or similar substance, in such manner as to come into contact with the gunpowder, and such interior, benches, shelves, and fittings shall, so far as is reasonably practicable, be kept free from grit, and otherwise clean; and
- (5) The store shall have attached thereto a sufficient lightning conductor, unless it is made by excavation or is licensed for less than one thousand pounds of gunpowder; and
- (6) Before repairs are done to or in any part of a store, the store shall, so far as practicable, be cleaned by the removal of all gunpowder and the thorough washing out of the store; and after such cleaning, these rules shall cease to apply to the store until gunpowder is again taken there; and
- (7) Except after such cleaning, all tools and implements used in or in any repairs to the store shall be made only of wood, copper, or brass, or some soft metal or material, or shall be covered with some safe and suitable material; and
- (8) Due provision shall be made, by the use of suitable working clothes without pockets, suitable shoes, searching, and otherwise, or by some of such means, for preventing the introduction into the store of fire, lucifer matches, or any substance or article likely to cause explosion or fire, or any iron, steel, or grit; but this rule shall not prevent the introduction of an artificial light of such construction, position, or character as not to cause any danger of fire or explosion; and
- (9) No person shall smoke in any part of the store; and
- (10) A person under the age of sixteen years shall not be employed in or enter the store, except in the presence and under the supervision of some grown up person.

In the event of any breach (by any act or default) of the general rules in any store—

- (a) All or any part of the gunpowder in respect to which or being in the store when the offence was committed may be forfeited; and

(c) **Order in Council.**—The situation and construction of stores are prescribed for gunpowder by O. in C. No. 5, Nov. 27th, 1875 (*Lond. Gaz.*, Nov. 30th, 1875, p. 6039), and for other explosives by O.'s in C. Nos. 6, 6 (a), and 13, Nov. 27th, 1875, Apl. 20th, 1883, and Sept. 24th, 1886 (*Lond. Gaz.*, Nov. 30th, 1875, p. 6041; Apl. 20th, 1883, p. 2102; and Sept. 28th, 1886, p. 4727, respectively).

38 Vict. c. 17.

(b) The occupier shall be liable to a penalty not exceeding ten pounds, and in addition (in the case of a second offence) ten pounds for every day during which such breach continues.

Non-trans-  
ferability,  
renewal,  
and forms of  
store licences.

18. A store licence shall be valid only for the person named in it, and shall annually, unless the circumstances have so changed that the grant of a new licence would not be authorised by this Act, on application by post or otherwise, and payment of such fee, not exceeding one shilling, as may be from time to time fixed by the local authority, be renewed by that authority, by endorsement or otherwise, for that year, and unless so renewed shall expire.

Store licences shall be in the form from time to time directed by the Secretary of State.

Special rules  
for regulation  
of workmen in  
stores.

19. Every occupier of a gunpowder store may, with the sanction of the Secretary of State, make, and when made, may, with the like sanction, repeal, alter, or add to, special rules for the regulation of the persons managing or employed in or about such store, with a view to secure the observance of this Act therein, and the safety and proper discipline of the said persons and the safety of the public.

There may be annexed to any breach of special rules made in pursuance of this section such penalties, not exceeding forty shillings for each offence, as may be deemed just.

*Application of Act to existing Stores for Gunpowder.*

Definition of  
and con-  
tinuing certi-  
ficate for  
existing stores  
which are to  
be subject to  
this Act.

20. Any magazine established without a licence from a local authority in pursuance of the Gunpowder Act, 1860, or of any enactment repealed by that Act, for the use of any mine, quarry, colliery, or factory of safety fuses, and in use at the passing of this Act, is in this Act referred to as an existing gunpowder store.

An existing gunpowder store shall not require a continuing certificate as a magazine from the Secretary of state, but shall require a continuing certificate from the local authority, and if such certificate is not applied for and obtained in manner provided by this Act, shall not be deemed to be a lawfully existing store.

The occupier of the store desirous of obtaining a continuing certificate shall, before the expiration of three months after the commencement of this Act, send an application for such certificate to the local authority, stating his name, address, and calling, and the situation and construction of the store, and accompanied by such particulars respecting the store as may be necessary to enable the local authority to make out the certificate.

The local authority upon receiving such application shall, as soon as practicable, on payment of such fee, not exceeding half-a-crown, as may be fixed by that authority, grant the continuing certificate, inserting therein such particulars as appear to them to be sufficient to identify the store, and inserting the maximum amount of gunpowder which the store is to be limited to hold, and such amount shall be the maximum amount which the store was capable of holding on the first day of January, one thousand eight hundred and seventy-five, or such less amount as is limited by the regulations below in this section mentioned.

The regulations in part two of the first schedule to this Act shall apply to every store to which a continuing certificate is granted, as if they were contained in an Order in Council under this Act relating to stores.

For the purposes of this Act a continuing certificate for a store shall, save as otherwise expressly provided, be deemed to be a licence, and the store a store licensed under this Act, and the provisions of this Act shall be construed accordingly.

Provided that—

- (1) The store shall not be enlarged, or added to, or so altered as to be of a less secure construction, and any breach of this proviso shall be deemed to be a breach of the general rules relating to stores; and
- (2) The continuing certificate shall not be limited in duration, but if the business carried on in the store is discontinued, and either such discontinuance continues for a period of twelve months or more, or the store is used for another purpose, such store shall cease to be deemed an existing gunpowder store.

Nothing in this section shall prevent the obtaining for any existing gunpowder store of a licence from the local authority under this Act, as in the case of a new store, and a store for which such licence is obtained shall, whether a continuing certificate has or has not been previously obtained for the same, cease to be deemed an existing gunpowder store. 38 Vict. c. 17.

The occupier of an existing gunpowder store may, until the expiration of the time within which he is required by this section to send to the local authority an application for a continuing certificate, and if he has sent such an application as is required by this section may, until the expiration of six months after the expiration of the said time, or any earlier date at which he obtains such certificate, carry on his business in such store in like manner as if this Act had not passed.

*Retail Dealing with Gunpowder.*

*Registration and Regulation of Registered Premises.*

**21.** A person desirous of registering with the local authority any premises for the keeping of gunpowder shall register his name and calling, and the said premises (in this Act referred to as his registered premises) in such manner and on payment of such fee, not exceeding one shilling, as may be directed by the local authority. Registration of premises with local authority.

Such registration shall be valid only for the person registered, and shall be annually renewed by sending by post or otherwise notice of such renewal to the local authority, together with such fee, not exceeding one shilling, as may be fixed by that authority.

**22.** The following general rules shall be observed with respect to registered premises: General rules for registered premises.

- (1) The gunpowder shall be kept in a house or building, or in a fireproof safe, such safe, if not within a house or building, to be at a safe distance from any highway, street, public thoroughfare, or public place; and
- (2) The amount of gunpowder on the same registered premises shall not—
  - (a) If it is kept in a substantially constructed building exclusively appropriated for the purpose and detached from a dwelling-house, or in a fireproof safe outside a dwelling-house, and detached therefrom, and at a safe distance from any highway, street, public thoroughfare, or public place, exceed two hundred pounds; and
  - (b) If it is kept inside a dwelling-house, or in any building other than as last aforesaid, exceed fifty pounds, unless it is kept in a fireproof safe within such house or building, in which case the amount shall not exceed one hundred pounds; and
- (3) An article or substance of an explosive or highly inflammable nature shall not be kept in a fireproof safe with the gunpowder, and in every case shall be kept at a safe distance from the gunpowder, or the safe containing the same; and
- (4) Neither the building exclusively appropriated for the purpose of keeping the gunpowder nor the fireproof safe shall have any exposed iron or steel in the interior thereof; and
- (5) All gunpowder exceeding one pound in amount shall be kept in a substantial case, bag, canister, or other receptacle made and closed so as to prevent the gunpowder from escaping.

In the event of any breach (by any act or default) of such general rules in any registered premises—

- (a) All or any part of the gunpowder in respect to which, or being in any house, building, place, safe, or receptacle in respect to which, the offence was committed may be forfeited; and
- (b) The occupier shall be liable to a penalty not exceeding two shillings for every pound of gunpowder in respect of which or being on the premises in which the offence was committed.

*Supplemental Provisions.*

**23.** The occupier of every factory, magazine, store, and registered premises for gunpowder, and every person employed in or about the same, shall take all due precaution for the prevention of accidents by fire or explosion in the same, and for preventing unauthorised persons having access to the factory, magazine, Precautions against fire or explosion to be taken by occupier.



38 Vict. c. 17. or store, or to the gunpowder therein or in the registered premises, and shall abstain from any act whatever which tends to cause fire or explosion and is not reasonably necessary for the purpose of the work in such factory, magazine, store, or premises.

Any breach (by any act or default) of this section in any factory, magazine, store, or registered premises shall be deemed to be a breach of the general rules applying thereto.

Explanation  
as to quantities  
of gunpowder  
allowed in  
buildings.

**24.** Where any provision of this Act limits the quantity of gunpowder or ingredients of gunpowder to be allowed in any building at any one time, all gunpowder and ingredients within the radius of twenty yards from the building and in course either of removal from the building, or of removal to the building for the supply and work thereof, shall be deemed to be in the building:

Provided that, if while the gunpowder or ingredients so in course of removal are within the radius, every machine and manufacturing process in the building is wholly stopped, there may, in addition to the quantity so allowed as aforesaid to be in the building, be within the radius a further quantity of gunpowder and ingredients so in course of removal as aforesaid, not exceeding the quantity specified in that behalf in the licence, or in the case of an existing building in a lawfully existing factory for gunpowder ten hundredweight, or any less quantity so allowed as aforesaid to be in the building.

Where any provision of this Act limits the quantity of gunpowder or ingredients of gunpowder to be allowed in any machine at any one time, but does not limit the quantity to be in the building containing such machine, the foregoing provisions of this section shall apply, so far as circumstances admit, as if such machine were a building.

Where the quantity allowed to be in any building is limited to what is required for the immediate supply and work of such building, or by words not specifying the exact quantity, a Government inspector who considers that the quantity in any such building is in excess, may, after hearing the explanation of the occupier, require the occupier to diminish such quantity to the maximum named in the requisition.

The occupier, if he feel aggrieved by such requisition, may require the matter to be referred to arbitration in manner provided by this Act.

The exact quantity to be allowed in such building shall be determined by the requisition, or if the matter is referred to arbitration, by the award.

Regulations  
as to arbitra-  
tion.

**25.** An occupier authorised by this Act to require any matter to be referred to arbitration may, within one month after receiving the requisition, notice, or document relating to the matter to be so referred, send an objection thereto to the Secretary of State; and if the cause of such objection is not, within one month after such objection is received by the Secretary of State, removed by the Secretary of State waiving or varying the said requisition, notice, document, or matter, or otherwise (which the Secretary of State is hereby authorised to do), such occupier may, by notice sent within seven days after the expiration of the said month to the Secretary of State, require the matter to be referred to arbitration, and the date of the receipt by the Secretary of State of the last mentioned notice shall be deemed to be the date of the reference.

Arbitrations under this Act shall be conducted in manner provided by the second schedule to this Act.

Fees for  
licences.

**26.** There shall be payable in respect of licences and continuing certificates granted by the Secretary of State such fees as may be from time to time fixed by him with the consent of the Treasury, not exceeding the fees in the third schedule to this Act, and if no fee is fixed the fees mentioned in the said schedule (*d*).

Such fees shall be taken and paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury may from time to time direct, and shall be carried to the Consolidated Fund.

The Secretary of State may also require any applicant for a new licence to pay such sum as the Secretary of State may think reasonable for expenses incurred

(*d*) **Fees for licences.**—These fees are fixed by the Secretary of State by orders dated Nov. 1875, April 1878, April 1st, 1882, and Feb. 1884 (*Lond. Gaz.*, Nov. 30th, 1875, p. 6061; May 3rd, 1878, p. 2864; March 31st, 1882, p. 1472; and Feb. 26th, 1884, p. 303, respectively).

upon any inquiry made by order of the Secretary of State with respect to the grant of such licence. 38 Vict. c. 17.

When the local authority do not fix any fee which they are authorised by this Act to fix, the fee payable shall be the maximum fee which such authority are authorised to fix.

The fees payable to the local authority in respect of any licence, certificate, or otherwise in pursuance of this Act, shall, where the clerk of the local authority is not wholly paid by fees, be carried to the credit of the local rate, or otherwise disposed of as such local authority may direct, and where such clerk is wholly paid by fees, shall, unless the local authority otherwise direct, be paid to such clerk.

**27.** For the purposes of the provisions of this Act with respect to the manufacture and keeping of gunpowder, all buildings and places adjoining each other and occupied together shall be deemed to be the same factory, magazine, store, or premises, and shall accordingly be included in one licence or one registration.

Adjoining places occupied together to be one place.

**28.** The local authority shall cause registers of all store licences granted by and of all premises registered with them under this Act to be kept in such form and with such particulars as they may direct.

Register of store licences and registered premises to be kept by local authority.

The local authority shall, when so required by the Secretary of State, send to him, within the time fixed by such requisition, a copy of such register or any part thereof, and in default the clerk of such authority, and also the authority if they are in fault, shall be liable to a penalty not exceeding one pound for every day during which such default continues.

A ratepayer within the area of the local authority, and a licensee or person registered under this Act, upon payment of a fee of one shilling, and a Government inspector, and an officer appointed by any local authority for the purposes of this Act, and an officer of police, without payment, shall be entitled at all reasonable times to inspect and take copies of or extracts from any register kept in pursuance of this section; and the clerk of the local authority and every other person who fails to allow such inspection or taking copies of or extracts from the same, or demands any unauthorised fee therefor, shall be liable to a penalty not exceeding one pound for each offence.

**29.** If the occupier of a store or registered premises dies or becomes bankrupt, or has his affairs liquidated by arrangement, or becomes mentally incapable or otherwise disabled, the person carrying on the business of such occupier shall not be liable to any penalty or forfeiture under this Act for carrying on the business and acting under the licence or registration during such reasonable time as may be necessary to allow him to obtain a store licence from or to register with the local authority, so that he otherwise conform with the provisions of this Act.

Provision in case of death, &c. of occupier of store or registered premises.

#### *Sale of Gunpowder.*

**30.** Gunpowder shall not be hawked, sold, or exposed for sale upon any highway, street, public thoroughfare, or public place.

If any gunpowder is hawked, sold, or exposed for sale in contravention of this section—

Restriction on sale of gunpowder in highways, &c.

(1) The person hawking, selling, or exposing for sale the same shall be liable to a penalty not exceeding forty shillings; and

(2) All or any part of the gunpowder which is so hawked or exposed for sale, or is found in the possession of any person convicted under this section, may be forfeited.

**31.** Gunpowder shall not be sold to any child apparently under the age of thirteen years; and any person selling gunpowder in contravention of this section shall be liable to a penalty not exceeding five pounds.

Penalty for sale of gunpowder to children.

**32.** All gunpowder exceeding one pound in weight, when publicly exposed for sale or sold, shall be in a substantial case, bag, canister, or other receptacle, made and closed so as to prevent the gunpowder from escaping, and (except when the same is sold to any person employed by or on the property occupied by the vendor for immediate use in the service of the vendor or on such property) the outermost receptacle containing such gunpowder shall have affixed the word "gunpowder" in conspicuous characters by means of a brand or securely attached label, or other mark.

Sale of gunpowder to be in closed packages labelled.

If any gunpowder is sold or exposed for sale in contravention of this section—

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1. The person selling or exposing for sale the same shall be liable to a penalty not exceeding forty shillings; and
2. All or any part of the gunpowder so exposed for sale may be forfeited.

*Conveyance of Gunpowder.*

General rules  
as to packing  
of gunpowder  
for con-  
veyance.

**33.** The following general rules shall be observed with respect to the packing of gunpowder for conveyance :

1. The gunpowder, if not exceeding five pounds in amount, shall be contained in a substantial case, bag, canister, or other receptacle, made and closed so as to prevent the gunpowder from escaping; and
2. The gunpowder, if exceeding five pounds in amount, shall be contained either in a single package or a double package. A single package shall be a box, barrel, or case of such strength, construction, and character as may be for the time being approved by the Government inspector as being of such strength, construction, and character that it will not be broken or accidentally opened, or become defective or insecure whilst being conveyed, and will not allow the gunpowder to escape. If the gunpowder is packed in a double package the inner package shall be a substantial case, bag, canister, or other receptacle made and closed so as to prevent the gunpowder from escaping, and the outer package shall be a box, barrel, or case of wood or metal or other solid material, and shall be of such strength, construction, and character that it will not be broken or accidentally opened, or become defective or insecure whilst being conveyed, and will not allow the gunpowder to escape; and
3. The interior of every package, whether single or double, shall be kept free from grit and otherwise clean; and
4. Every package, whether single or double, when actually used for the package of gunpowder, shall not be used for any other purpose; and
5. There shall not be any iron or steel in the construction of any such single package or inner or outer package, unless the same is effectually covered with tin, zinc, or other material; and
6. The amount of gunpowder in any single package, or if there is a double package in any one outer package, shall not exceed one hundred pounds, except with the consent of and under conditions approved by a Government inspector; and
7. On the outermost package there shall be affixed the word "gunpowder" in conspicuous characters by means of a brand or securely attached label or other mark.

In the event of any breach (by any act or default) of any general rule in this section, the gunpowder in respect of which the breach is committed may be forfeited, and the person guilty of such breach shall be liable to a penalty not exceeding twenty pounds.

The Secretary of State may from time to time make, and when made, repeal, alter, and add to, rules for the purpose of rescinding, altering, or adding to the general rules contained in this section (e), and the rules so made by the Secretary of State shall have the same effect as if they were enacted in this section.

Byelaws by  
harbour  
authority as to  
conveyance,  
loading, &c. of  
gunpowder.

**34.** Every harbour authority shall, with the sanction of the Board of Trade, make byelaws for regulating the conveyance, loading, and unloading of gunpowder within the jurisdiction of the said authority, and in particular for declaring or regulating all or any of the following matters within the jurisdiction of the said authority; namely,

1. Determining the notice to be given by ships and boats conveying, loading, or unloading gunpowder as merchandise within the said jurisdiction; and
2. Regulating the navigation and place of mooring of such ships and boats; and
3. Regulating, subject to the general rules with respect to packing in this Act contained, the mode of stowing and keeping gunpowder on board any such ship or boat, and of giving notice by brands, labels, or otherwise of the nature of the package containing the gunpowder; and

(e) **Secretary of State may make, &c. rules.**—The general rules contained in this section were amended by order of Secretary of State, No. 3 (b), Feb. 1st, 1890 (*Lond. Gaz.*, Feb. 4th, 1890, p. 607).



4. Regulating the description, construction, fitting up, and licensing of the ships, boats, or carriages to be used for the conveyance of gunpowder, and the licensing and dress of the persons having charge thereof; and
5. Prohibiting or subjecting to conditions and restrictions the conveyance of gunpowder with any explosive or any articles or substances, or in passenger ships, boats, trains, or carriages; and
6. Prohibiting in cases where the loading or unloading of gunpowder within the jurisdiction of such authority appears to be specially dangerous to the public such loading or unloading, and fixing the places and times at which the gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one ship, boat, or carriage; and
7. Regulating the mode of and the precautions to be observed in conveying any gunpowder, and in the loading or unloading any ship, boat, or carriage conveying gunpowder as merchandise, and the time during which gunpowder may be kept during such conveyance, loading, or unloading; and
8. Fixing the times at which lights or fires are to be allowed or not allowed on board such ships or boats, as before mentioned, or at which a constable or officer of the harbour authority is to be on board them; and
9. Providing for the publication and supply of copies of the byelaws; and
10. Enforcing the observance of this Act both by their own servants and agents and also by other persons when within the said jurisdiction; and
11. Generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

The penalties to be annexed to any breach or attempt to commit any breach of any such byelaws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first or second or other subsequent offence, that is to say, pecuniary penalties not exceeding twenty pounds for each offence, and ten pounds for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or found in the ship, boat, or carriage in respect of which, the breach of byelaw has taken place.

In the event of any breach of a byelaw under this section in the case of any ship, boat, carriage, or gunpowder, whether there has or has not been any conviction for such breach, it shall be lawful for the harbour master, or other officer named in the byelaws, or any person acting under the orders of the harbour authority, to cause such ship, boat, carriage, or gunpowder, at the expense of the owner thereof, to be removed to such place or otherwise dealt with in such manner as may be in conformity with the byelaws, and all expenses incurred in such removal may be recovered in the same manner as a penalty under this section, and any person resisting such harbour master or officer or other person in such removal shall be liable to the same penalties as a person is liable to for obstructing the harbour master in the execution of his duty.

On any part of the coast of the United Kingdom or in any tidal water for which there is no harbour authority, the Board of Trade may, if they think it expedient, make byelaws under this section for that part or water as if it were a harbour and they were the harbour authority, and such byelaws shall be deemed to have been made by a harbour authority with the sanction of the Board of Trade; and they may by such byelaws define the area within which such byelaws are to be observed, and the authorities and officers by whom such byelaws are to be enforced and carried into effect within such area, and every such authority and officer shall for the purposes of this Act, other than making byelaws or assenting to a site for a new factory or magazine, have the same power within the said area as a harbour authority and an officer of a harbour authority have respectively under this Act in a harbour.

**35.** [*Byelaws by railway and canal company as to conveyance, loading, &c. of gunpowder.*]

**36.** The occupier of every wharf or dock on or in which gunpowder is loaded or unloaded (if such loading or unloading is not otherwise subject to any byelaws under this Act) may, and if so required by the Secretary of State shall, from time to time, with the sanction of the Secretary of State, make byelaws for regulating the loading and unloading of gunpowder on or in such wharf or dock, and in particular for declaring or regulating all or any of the matters which can be declared or regulated in the case of any wharf or dock within the jurisdiction of

Byelaws as to wharves in which gunpowder is loaded or unloaded.

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The penalties to be annexed to any breach, or attempt to commit any breach, of any such byelaws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first or second or other subsequent offence, that is to say, pecuniary penalties not exceeding twenty pounds for each offence, and ten pounds for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or found on the wharf or in the dock or part of the wharf or dock in respect of which, the breach of byelaw has taken place.

Any byelaws made in pursuance of this section may, and if required by the Secretary of State shall, be rescinded, altered, or added to by byelaws made by the occupier, with the sanction of the Secretary of State.

If an occupier is required by the Secretary of State to make byelaws under this section for any matter, and fail within three months after such requisition to comply therewith to the satisfaction of the Secretary of State, the Secretary of State may make such byelaws, which shall have effect as if made by the occupier with the sanction of the Secretary of State.

Where by reason of a wharf being a public wharf or otherwise, there is no occupier thereof, or the occupier thereof is unknown, the Secretary of State may make byelaws with respect to such wharf in like manner as if the occupier had failed to comply with his requisition: Provided that where such wharf abuts on any harbour, canal, or railway, the harbour authority or canal or railway company shall have the same power, and, if so required by the Secretary of State, shall be under the same obligation to make byelaws under this section for such wharf as if they were the occupiers thereof.

Byelaws as to conveyance by road or otherwise, or loading of gunpowder.

**37.** The Secretary of State may from time to time make, and when made, rescind, alter, or add to, byelaws for regulating the conveyance, loading, and unloading of gunpowder in any case in which byelaws made under any other provision of this Act do not apply (*f*), and in particular for declaring or regulating all or any of the following matters; that is to say,

- (1) Regulating the description and construction of carriages to be used in the conveyance of gunpowder as merchandise; and
- (2) Prohibiting or subjecting to conditions and restrictions the conveyance of gunpowder with any explosive, or with any articles or substances, or in passenger carriages; and
- (3) Fixing the places and times at which the gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one carriage; and
- (4) Determining the precautions to be observed in conveying gunpowder, and in loading and unloading the carriages used in such conveyance, and the time during which the gunpowder may be kept during such conveyance, loading, and unloading; and
- (5) Providing for the publication and supply of copies of the byelaws; and
- (6) Generally for protecting, whether by means similar to those above mentioned or not, persons or property from danger; and
- (7) Adapting on good cause being shown the byelaws in force under this section to the circumstances of any particular locality.

The penalties to be annexed to any breach, or attempt to commit any breach, of any such byelaws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first, second, or other subsequent offence, that is to say, pecuniary penalties not exceeding twenty pounds for each offence, and ten pounds for each day during which the breach continues, and forfeiture of all or any part of the gunpowder in respect of which, or being in the carriage in respect of which, the breach of byelaw has taken place.

For the purpose of any mode of conveyance which is not a conveyance by land this section shall be construed as if ship and boat were included in the term carriage.

(*f*) **Byelaws as to conveyance of gunpowder.**—The order of the Secretary of State making byelaws as to the conveyance of gunpowder and other explosives is No. 4, dated Nov. 1875 (*Lond. Gaz.*, Nov. 30th, 1875, p. 6059).

38. Any recommendation to Her Majesty in Council, any general rules with respect to packing, and any byelaws which is or are proposed to be made under this Act by a Secretary of State or the Board of Trade shall, before being so made, be published in such manner as the Secretary of State or the Board of Trade, as the case may be, may direct as being in his or their opinion sufficient for giving information thereof to all local authorities, corporations, and persons interested.

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Confirmation and publication of bye-laws.

The byelaws framed by any railway company, canal company, or harbour authority under this Act shall, before being sanctioned by the Board of Trade, be published in such manner as may be directed by the Board of Trade, with a notice of the intention of such company or authority to apply for the confirmation thereof, and may be sanctioned by the Board of Trade with or without any omission, addition, or alteration, or may be disallowed.

Every such byelaw may be from time to time added to, altered, or rescinded by a byelaw made in like manner and with the like sanction as the original byelaw.

The Secretary of State or the Board of Trade, as the case may be, shall receive and consider any objections or suggestions made by any local authority, corporation, or persons interested with respect to any recommendation, general rules, or byelaws published in pursuance of this section, and may, if it seem fit, amend such recommendation, general rules, or byelaws with a view of meeting such objections or suggestions without again publishing the same.

## PART II.

## LAW RELATING TO OTHER EXPLOSIVES.

*Application of Part I. to other Explosives.*

39. Subject to the provisions hereafter in this part of this Act contained, part one of this Act relating to gunpowder shall apply to every other description of explosive, in like manner as if those provisions were herein re-enacted with the substitution of that description of explosive for gunpowder.

Part i. relating to gunpowder applied to other explosives.

40. The following modifications and additions shall be made in and to part one of this Act as applied to explosives other than gunpowder :

Modification of part i. as applied to explosives other than gunpowder.

(1) The draft licence for a factory or magazine submitted by an applicant to the Secretary of State shall specify such particulars as the Secretary of State may require; and

(2) The prescribed general rules (g) shall be substituted for the general rules in part one of this Act relating to factories, magazines, stores, and registered premises respectively; but no such general rule shall require the removal of any building or work in use at the date of the Order in Council by which such rule is made;

(3) The Secretary of State may from time to time alter the general rules relating to packing contained in part one of this Act for the purpose of adapting the same to the packing of any explosive other than gunpowder (h); and

(4) For the maximum amount limited by part one of this Act to be kept for private use and not for sale, or in a store, and for the minimum amount limited by part one of this Act to be exposed for sale or sold otherwise than in a substantial case, box, canister, or other receptacle as therein mentioned, there shall be substituted in the case of explosives other than gunpowder the following amounts; namely,

(g) **Prescribed general rules**, i.e., prescribed by Order in Council, sec. 108, *post*. General rules (for explosives other than gunpowder) are prescribed by O. in C. No. 2 for factories; by O. in C. No. 3, part i., for magazines; by O. in C. No. 6, part ii., for stores. These orders are dated Nov. 27th, 1875, and are published in the *London Gazette* Nov. 30th, 1875, pp. 6038, 6036, and 6043. General rules for premises registered for the keeping of mixed explosives are prescribed by O. in C. dated Oct. 26th, 1896, part i. (*Lond. Gaz.*, Oct. 30th, 1896, p. 5901).

(h) **Adapting general rules**.—The general rules in part i. for packing gunpowder are adapted to other explosives by orders of Secy. of State No. 3, Nov. 1875; No. 3 (a), April 1st, 1889; and No. 3 (c), Oct. 30th, 1893 (*Lond. Gaz.*, Nov. 30th, 1875, p. 6057; Ap. 2nd, 1889, p. 1870; and Nov. 3rd, 1893, p. 6148, respectively).



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- (a) Where such explosive consists of safety cartridges made with gunpowder, an amount containing not more than five times the maximum or minimum amount of gunpowder, as the case may be, above mentioned; and
- (b) In the case of any other explosive, the prescribed amount (r); and
- (5) Two or more descriptions of explosives shall not be kept in the same store or registered premises, except such descriptions as may be prescribed in that behalf (k); and, when so kept, shall be kept subject to the prescribed conditions and restrictions; and
- (6) Where any explosive, other than gunpowder, is allowed to be kept in the same store or registered premises with gunpowder, the maximum amount of gunpowder to be kept therein shall be the prescribed amount in lieu of the amount fixed by part one of this Act (l); and
- (7) Where any explosive, other than gunpowder, is allowed to be kept in the same magazine, store, or registered premises with gunpowder, the prescribed general rules shall be observed instead of the general rules in part one of this Act (m); and
- (8) There shall be on the outermost package containing the explosive in lieu of the word "gunpowder" the name of the explosive, with the addition of the word "explosive," and if such name is materially false the person selling or exposing for sale such explosive, and also the owner of the explosive, shall be liable to a penalty not exceeding fifty pounds:
- (9) With respect to the importation from any place out of the United Kingdom of either dynamite or gun-cotton, or any explosive (other than gunpowder, cartridges made with gunpowder, percussion caps, fireworks, and any prescribed explosive (n)), the following provisions shall have effect: that is to say—
- (a) The owner and master of any ship having on board any such explosive shall not permit the same to be unloaded and delivered to any person who does not hold a licence to import the same (in this Act called an importation licence) from the Secretary of State, and any transshipment shall for the purpose of this section be deemed to be delivery; and
- (b) The Secretary of State may grant an importation licence for any such explosive, and may annex thereto any prohibitions and restrictions with respect to the composition and quality of the explosive, and the unloading, landing, delivery, and conveyance thereof, and such further provisions and restrictions as he may think fit, for the protection of the public from danger; and
- (c) The licence shall be of such duration as the Secretary of State may fix, and shall be available only for the person named in the licence; and
- (d) In the event of any breach by any act or default of the provisions of this section with respect to the importation of an explosive, or of the provisions of any importation licence, all or any part of the explosive with respect to which such breach is committed, or being in any ship or boat in connexion with which such breach is committed, may be forfeited, and the owner and master of such ship or boat, and the licensee or person to whom

(i) **Prescribed amount.**—The maximum amount of explosive other than gunpowder to be kept for private use, or in a store, or exposed for sale, other than in a substantial case, is prescribed by Orders in Council No. 8, No. 6, part i., and No. 9, Nov. 27th, 1875 (*Lond. Gaz.*, Nov. 30th, 1875, pp. 6033, 6034, and 6041).

(k) **Prescribed descriptions.**—The descriptions of explosives which may be kept together in stores are prescribed by O. in C. No. 6, part ii., Nov. 27th, 1875 (*Lond. Gaz.*, Nov. 30th, 1875); and in registered premises by O. in C. Oct. 26th, 1896, part ii. (*Lond. Gaz.*, Oct. 30th, 1896, p. 5903).

(l) **The maximum amount of gunpowder** to be kept with other explosives is prescribed, in stores, by O. in C. No. 6, part i., Nov. 27th, 1875 (*Lond. Gaz.*, Nov. 30th, 1875, p. 6041), and in registered premises by O. in C. Oct. 26th, 1896 (*Lond. Gaz.*, Oct. 30th, 1896, p. 5901).

(m) **Other explosives with gunpowder.**—General rules for keeping explosives other than gunpowder in the same store with gunpowder are prescribed by Orders in Council No. 5, part ii., and No. 9, part i., Nov. 27th, 1875 (*Lond. Gaz.*, Nov. 30th, 1875, pp. 6036 and 6043); and in registered premises by O. in C. Oct. 26th, 1896 (*Lond. Gaz.*, Oct. 30th, 1896, p. 5901).

(n) **Prescribed explosive.**—The O. in C. prescribing explosives to be exempted from an importation licence is No. 10, Nov. 27th, 1875 (*Lond. Gaz.*, Nov. 30th, 1875, p. 6033).

the explosive is delivered, shall each be liable to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding two shillings for every pound of such explosive; and

38 Vict. c. 17.

(e) The commissioners of customs and their officers shall have the same power with respect to any such explosive, and the ship containing the same, as they have for the time being with respect to any article on the importation of which restrictions are for the time being imposed by the law relating to the customs, and the ship containing the same, and the enactments for the time being in force relating to the customs or any such article or ship shall apply accordingly.

41. Nothing in this Act shall apply to the filling or conveying, for private use and not for sale, of any safety cartridges to the amount allowed by this Act to be kept for private use.

Exemption of making and carrying safety cartridges for private use.

42. [*Rep. by Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), sec. 741 (o).*]

*Specially Dangerous Explosives.*

43. Notwithstanding anything in this Act, Her Majesty from time to time, by Order in Council, may prohibit, either absolutely, or except in pursuance of a licence of the Secretary of State under this Act, or may subject to conditions or restrictions the manufacture, keeping, importation from any place out of the United Kingdom, conveyance, and sale, or any of them, of any explosive which is of so dangerous a character that, in the judgment of Her Majesty, it is expedient for the public safety to make such order (p):

Power to prohibit manufacture, importation, storage, and carriage of specially dangerous explosives.

Provided that such order shall not absolutely prohibit anything which may be lawfully done in pursuance of any continuing certificate under this Act.

Any explosive manufactured or kept in contravention of any such order shall be deemed to be manufactured or kept, as the case may be, in an unauthorised place.

Any explosive conveyed in contravention of any such order shall be deemed to be conveyed in contravention of a byelaw made under this Act with respect to the conveyance of explosives.

If any explosive is imported or sold in contravention of any such order—

- (1) All or any part of such explosive may be forfeited; and
- (2) The owner or master of the ship in which it was imported shall be liable to a penalty not exceeding ten shillings for every pound of such explosive brought in the ship; and
- (3) The person to whom it was delivered and the person selling the same shall be liable to a penalty not exceeding ten shillings for every pound of such explosive delivered or sold or found in his possession.

The commissioners of customs and their officers shall have the same power with respect to any such explosive, and the ship containing the same, as they have for the time being with respect to any article prohibited to be imported by the law relating to the customs, and the ship containing the same, and the enactments for the time being in force relating to the customs and any such article or ship shall apply accordingly.

*Provisions in favour of certain Manufacturers and Dealers.*

44. The occupier of a factory for any explosive shall not be required by this Act to take out a factory licence for making up on such factory the explosive made thereon into cartridges or charges for cannon or blasting not containing within themselves their own means of ignition.

Provision in favour of makers, &c. of blasting cartridges.

The occupier of any magazine, store, or registered premises for keeping any explosive may keep that explosive when made up into such cartridges or charges as above in this section mentioned, as if it were not so made up, and the pro-

(o) **Merchant Shipping Act, 1894.**—This Act, subject to provisions as to military stores, forbids the carriage, in an emigrant ship, as cargo, of any article which is an explosive within the meaning of the present Act (*ib.*, sec. 30), and, by sec. 446, imposes restrictions on the carriage of dangerous goods by any vessel.

(p) **Specially dangerous explosives.**—The Orders in Council issued and in force under this section are Nos. 6 (a) and 12, Apl. 20th, 1883 (*Lond. Gaz.*, Apl. 20th, 1883, pp. 2101 and 2102); No. 10 (a), June 26th, 1884 (*Lond. Gaz.*, July 1st, 1884, p. 6033); No. 13, Sept. 24th, 1886 (*Lond. Gaz.*, Sept. 28th, 1886, p. 4727); No. 15, Apl. 30th, 1894 (*Lond. Gaz.*, May 4th, 1894, p. 2579); and O. in C. Oct. 26th, 1896 (*Lond. Gaz.*, Oct. 30th, 1896, p. 5901).

38 Viet. c. 17. visions of this Act with respect to the keeping of any explosive shall apply to the keeping of that explosive when made up into the said cartridges or charges, in like manner as if the explosive were not so made up.

Provision in favour of makers of new explosive for experiment.

45. The occupier of a factory for any explosive who manufactures a new explosive or new form of explosive similar to the one specified in his licence, shall not be deemed to have manufactured the same in an unauthorised place if he manufactured the same on a small scale, and exclusively for the purpose of trial and not for sale, and he send notice of the same, as soon as he has manufactured it, to the Secretary of State, and if he observe the provisions of this Act, so far as they are applicable.

Provision in favour of gunmakers, &c. making cartridges.

46. The occupier of a magazine, store, or registered premises for any explosive shall not be required by this Act to take out a factory licence by reason that in connexion with such magazine, store, or premises he fills for sale or otherwise any cartridge for small arms with the said explosive, so that he observe the following regulations; namely,

- (1) There shall not be in the room in which such filling is being carried on more than five pounds of gunpowder, or the prescribed amount (*g*) of any other explosive, except it is made up into safety cartridges; and
- (2) Any work unconnected with the making of the cartridges shall not be carried on in the room while such filling is being carried on; and
- (3) There shall not be in the room while such filling is being carried on any fire nor any artificial light, except a light of such construction, position, or character as not to cause any danger of fire or explosion; and
- (4) In the case of a magazine or store, the room in which the filling is carried on shall be detached from the magazine or store, but in the immediate neighbourhood thereof, and at such distance therefrom as may be specified in the case of a magazine by the licence, and in the case of a store by an Order in Council relating to stores (*r*); and
- (5) The occupier shall give notice in the case of a magazine to the Secretary of State, and in the case of a store or registered premises to the local authority, that he intends to carry on such filling of cartridges as is allowed by this section.

Provided that this section shall not, except with the consent of the Secretary of State, apply to any magazine or store for which a continuing certificate has been obtained under this Act, which consent the Secretary of State, if satisfied that the filling of cartridges in accordance with this section ought (due regard being had to the safety of the public) to be allowed, may grant either absolutely or upon such conditions as he may, under the special circumstances of the case, think expedient to secure the safety of the public.

The regulations in this section and any conditions so made by the Secretary of State, as last aforesaid, shall be deemed to be general rules under this Act relating to the magazine, store, and registered premises respectively, and the breach of them shall be punished accordingly.

Provision in favour of owners of mines and quarries as to making charges, &c. for blasting.

47. The occupier of any magazine or store for any explosive shall not be required by this Act to take out a factory licence by reason that, in connexion with such magazine or store, he, by filling cartridges, making charges, drying, sifting, fitting, or otherwise, adapts or prepares the said explosive for use exclusively in his mine or quarry, or in some excavation or work carried on by him or under his control, so that he observe the following regulations; namely,

- (1) There shall not be in the workshop in which such adaptation or preparation is carried on more than one hundred pounds of gunpowder or the prescribed amount of any other explosive (*s*); and
- (2) Any work unconnected with such adaptation or preparation shall not be

(*g*) **Prescribed amount**, i.e., prescribed by Order in Council, sec. 108, *post*. The amount of explosives other than gunpowder allowed in a filling room is prescribed by O. in C. Oct. 26th, 1896, part iv. (*Lond. Gaz.*, Oct. 30th, 1896, p. 5904).

(*r*) **Such distance as may be specified**.—Order in Council Nov. 5th, Nov. 27th, 1875 (*Lond. Gaz.*, Nov. 30th, 1875, p. 6039), prescribes the distance of the filling room from the store.

(*s*) **Any other explosive**.—The amount of explosives other than gunpowder allowed in workshops is prescribed by O. in C. No. 3, part iii.; and No. 6, part v., Nov. 27th, 1875 (*Lond. Gaz.*, Nov. 30th, 1875, pp. 6036 and 6043).



carried on in the said workshop while such adaptation or preparation is being carried on; and 38 Vict. c. 17.

(3) The said workshop shall be detached from the magazine or store, but in the immediate neighbourhood thereof, and at such distance therefrom as may be specified, in the case of a magazine by the licence, and in the case of a store by an Order in Council relating to stores (*t*); and

(4) An explosive of one description shall not be converted into an explosive of another description, and shall not be unmade or resolved into its ingredients; and

(5) The occupier shall give notice in the case of a magazine to the Secretary of State, and in the case of a store to the local authority, that he intends to carry on such adaptation or preparation as is allowed by this section.

Provided that this section shall not, except with the consent of the Secretary of State, apply to any magazine or store for which a continuing certificate has been obtained under this Act, which consent the Secretary of State, if satisfied that the adaptation or preparation in accordance with this section ought (due regard being had to the safety of the public) to be allowed, may grant either absolutely or upon such conditions as he may, under the special circumstances of the case, think expedient to secure the safety of the public.

The regulations in this section, and any conditions so made by the Secretary of State as last aforesaid, shall be deemed to be general rules under this Act relating to the magazine and store respectively, and the breach of them shall be punished accordingly.

The following general rules shall apply as if the said workshop were a danger building, that is to say, if the adaptation or preparation carried on is of gunpowder only, the general rules with respect to a factory in part one of this Act, and in any other case the prescribed general rules; and the breach of such general rules shall be punished in like manner as the breach of general rules with respect to a factory.

48. A firework factory shall not be deemed to be a small firework factory for the purposes of this Act if there is upon the factory at the same time—

(a) More than one hundred pounds of any explosive other than manufactured fireworks and coloured fires and stars; or

(b) More than five hundred pounds of manufactured fireworks, either finished or partly finished; or

(c) More than twenty-five pounds of coloured fires or stars, not made up into manufactured fireworks.

The occupier of a small firework factory shall not be required to obtain a licence under part one of this Act for such factory if he has obtained a licence from the local authority under this part of this Act.

A person having such licence from the local authority who manufactures an explosive (other than nitro-glycerine or any prescribed explosive) for the purpose only of the manufacture of coloured fires or a manufactured firework in accordance with this Act, and does not sell the same except in the form of coloured fires packed in the manner required by this Act, or of a manufactured firework, shall not be deemed to manufacture an explosive in an unauthorised place.

49. Any person may apply for a small firework factory licence to the local authority at the time and place appointed by such authority, stating his name, address, and calling, and the proposed site and construction of the factory, and the amount and description of explosive he proposes to have therein, and in any building therein; and the local authority shall, as soon as practicable, if the proposed site, construction of the factory, and amount of explosive is in accordance with the Order in Council regulating small firework factories, grant to the applicant, on payment of such fee, not exceeding five shillings, as may be fixed by that authority, the licence applied for.

The powers of this Act of making Orders in Council with respect to stores and of prescribing general rules with respect to stores shall extend to making Orders in Council and prescribing general rules with respect to small firework factories and the buildings thereon (*u*); and any breach (by any act or default)

Provision in favour of small firework manufacturer who may obtain a licence from the local authority.

Licensing by local authority and regulation of small firework factories.

(*t*) **Distance of workshop from store.**—This is prescribed by Orders in Council No. 8, and No. 9, part i., Nov. 27th, 1875 (*Lond. Gaz.* Nov. 30th, 1875, pp. 6039 and 6041).

(*u*) **Small firework factories.**—Explosives not to be made in a small firework factory, and regulations for small firework factories, are prescribed by O. in C. No. 4,

38 Vict. c. 17. of any such general rule shall involve the same penalties and forfeitures as a breach of a general rule relating to stores.

A small firework factory licence shall be valid only for the person named in it, and the provisions of this Act with respect to the renewal, expiration, and form of store licences, and fees for such renewal, and to special rules for the regulation of persons managing or employed in or about stores, shall apply in like manner as if they were herein enacted, and in terms made applicable to small firework factory licences and small firework factories respectively.

Keeping  
without a  
licence and  
conveyance of  
percussion  
caps, &c.

50. A person shall not be required by this Act to take out a licence or to register any premises for the keeping of percussion caps, or safety fuses for blasting, or fog signals kept by any railway company for use on the railway of such company, or any prescribed explosive.

It shall not be obligatory on any harbour authority, railway company, canal company, or occupier of a wharf, to make any byelaws with respect to the conveyance, loading, or unloading of any explosives to which this section applies.

It shall be lawful for Her Majesty, by Order in Council, to exempt any explosive to which this section applies, or any description thereof, from any other of the provisions of this Act, or to declare that a licence shall be required for the keeping of any explosive to which this section applies, or any description thereof, or that byelaws shall be made with respect to the loading, unloading, and conveyance thereof (x).

*Existing Factories, Magazines, and Stores.*

Application of  
part i. of the  
Act to existing  
factories and  
magazines.

51. In any continuing certificate for a lawfully existing factory or magazine for any explosive other than gunpowder, the regulations set out in the first schedule to this Act shall not form part of the terms of such certificate, but in lieu thereof the Secretary of State shall insert in the certificate as the terms thereof—

(1) If the factory or magazine is for dynamite or any substance having nitro-glycerine as one of its component parts or ingredients, the conditions contained in the existing licence, with such modifications (if any) as the Secretary of State may think necessary in order to bring the same into conformity with this Act, and also any limitation of time for the expiration of the licence contained in the existing licence, and also the existing power of the Secretary of State to revoke the licence; and

(2) In any other case, such terms as the Secretary of State may think expedient, having regard to the conditions (if any) contained in the licence under which the factory or magazine is established; and such terms shall include any limitation of time contained in such licence, but shall not require the removal of any lawfully existing building or work.

If a new licence under this Act is obtained for keeping in an existing gunpowder store any explosive other than gunpowder, the continuing certificate of such store shall be determined, and the store shall cease to be deemed to be an existing gunpowder store within the meaning of this Act.

Continuing  
certificate not  
required for  
factory,  
magazine, or  
importation  
licence  
expiring  
within twelve  
months, or  
for stores  
licensed under  
Nitro-glycerine  
Act, 1869.

52. Where the licence of a factory or magazine for any explosive other than gunpowder will expire within twelve months after the commencement of this Act, the occupier of such factory or magazine shall not require a continuing certificate under this Act, but until such licence expires shall be entitled to use such factory or magazine in like manner as if this Act had not passed, without prejudice nevertheless to any application by him for a licence under this Act for such factory or magazine, but after a licence under this Act is obtained for the same, or after the expiration of the old licence, such factory or magazine shall not be deemed to be a lawfully existing factory or magazine within the meaning of this Act.

The occupier of any magazine licensed at the time of the passing of this Act by a general magazine licence under the Nitro-glycerine Act, 1869, shall not require a continuing certificate under this Act, but until the expiration of six

parts i., ii., iii., Nov. 27th, 1875 (*Lond. Gaz.*, Nov. 30th, 1875, p. 6044). O. in C. No. 15, Apl. 30th, 1894 (*Lond. Gaz.*, May 4th, 1894, p. 2579), prohibits fireworks containing sulphur in admixture with chlorate of potassium or other chlorate.

(x) **Order in Council.**—The O. in C. under this section is No. 9, Nov. 27th, 1875 (*Lond. Gaz.*, Nov. 30th, 1875, p. 6033).

months after the commencement of this Act shall be entitled to use such magazine in like manner as if this Act had not passed, without prejudice nevertheless to a licence under this Act being obtained for the same; but after a licence under this Act is obtained for the same, or after the expiration of the said six months, such licence shall determine, and such magazine shall not be deemed to be a lawfully existing magazine or store within the meaning of this Act.

The holder of any importation licence under the Nitro-glycerine Act, 1869, shall, until the expiration of six months after the commencement of this Act, be entitled to act under such licence in like manner as if this Act had not passed, without prejudice nevertheless to any application by him for an importation licence under this Act; but after such licence under this Act is obtained, or after the expiration of the said six months, such existing licence shall determine.

38 Vict. c. 17.

### PART III.

#### ADMINISTRATION OF LAW.

##### *Government Supervision.*

##### *Inspection.*

53. [*Appointment of Government inspectors by Secretary of State (y).*]
54. [*Disqualification of persons as inspectors (y).*]
55. [*Powers of Government inspectors (y).*]
56. [*Notice by Government inspector to remedy dangerous practices, &c., and penalty for non-compliance (y).*]
57. [*Annual report of Government inspectors' proceedings (y).*]
58. [*Inspection by railway inspectors or inspectors of Board of Trade (y).*]
59. [*Application of 35 & 36 Vict. c. 76 and c. 77 to magazines used for mines (y).*]
60. [*Licence and special rules certified by Government inspector to be evidence. 35 & 36 Vict. c. 76, sec. 59 (y).*]
61. [*Keeping and carriage of samples by Government inspector (y).*]
62. [*Salaries of Government inspectors and expenses of Act (y).*]

##### *Accidents.*

63. [*Notice to be given to Secretary of State of accidents connected with explosive (y).*]
64. [*Reconstruction of buildings destroyed by accident (y).*]
65. [*Provisions as to coroners' inquests on deaths from accidents connected with explosives (y).*]
66. [*Inquiry into accidents and formal investigation in serious cases (y).*]

##### *Local Supervision.*

##### *Definition and Powers of Local Authority.*

- 67 The local authority, for the purposes of this Act, shall be—
  - (1) In the City of London, except as hereafter in this section mentioned, the court of the Lord Mayor and aldermen of the said City (z); and
  - (2) In the Metropolis (that is, in places for the time being within the jurisdiction of the Metropolitan Board of Works under the Metropolis Management Act, 1855), except the City of London, and except as hereafter in this section mentioned, the Metropolitan Board of Works (a); and
  - (3) (In any borough in England) . . . and

Definition of local authority.

(y) Sections 53—66 do not affect the powers or duties of the local authorities.  
 (z) Court of the Lord Mayor and aldermen.—Now the Common Council. Loc. Govt. Act, 1888, sec. 41 (1) (a), *ante*, vol. i.  
 (a) Met. Bd. Wks.—Now the London County Council. Loc. Govt. Act 1888, sec. 40 (8), *ante*, vol. i. The County Council (and in the City the Common Council) may delegate their powers and duties under this Act to any committee of their own body, or to the justices of the county sitting in petty sessions. *Ib.* sec. 28 (2).



38 Vict. c. 17.

(4) In any harbour within the jurisdiction of a harbour authority, whether situate or not within the jurisdiction of any local authority before in this section mentioned, the harbour authority, to the exclusion of any other local authority; and

(5) (*Where there is no local authority*) . . .

68. [*Power of certain boroughs, &c. to become a local authority.*]

Duty of local  
authority and  
power of  
officer.

69. It shall be the duty of every local authority to carry into effect within their jurisdiction the powers vested in them under this Act.

Any officer authorised by the local authority may, on producing, if demanded, either a copy of his authority purporting to be certified by the clerk or some member of the local authority, or some other sufficient evidence of his authority, require the occupier of any store (not being subject to the inspection under this Act of any inspector of mines) or any registered premises, or any small firework factory, to show him every or any place and all or any of the receptacles in which any explosive or ingredient of an explosive, or any substance the keeping of which is restricted or regulated by this Act, that is in his possession is kept, and to give him samples of such explosive, ingredient, or substance, or of any substance which the officer believes to be an explosive or such ingredient or substance.

Any occupier of a store or registered premises or a small firework factory who refuses to comply with any such requisition of an officer of the local authority, or to give him such assistance as he may require for the purpose of this section, or who wilfully obstructs the local authority, or any officer of the local authority, in the execution of this Act, shall be liable to a penalty not exceeding twenty pounds.

Expenses of  
local authority.

70. All expenses incurred by any local authority in carrying into effect the execution of this Act, including the salary and expenses of any officer directed by them to act under this Act, shall be paid out of the local rate. The local rate shall for the purposes of this Act mean as follows; that is to say,

In the City of London the consolidated rate;

In the Metropolis (exclusive of the City of London) the *consolidated rate* (b) as levied in the Metropolis exclusive of the City of London, and without any demand on such City;

(*In a borough*) . . .

In a harbour any moneys, fund or rate applicable or leviable by the harbour authority for any harbour purposes;

\* \* \* \* \*

And the local rate or any increase of the local rate may notwithstanding any limitation in any Act be levied for the purposes of this Act.

#### *Power of Local Authority to provide Carriages and Magazines.*

Undertaking  
of carriage by  
harbour  
authority  
and canal  
company.

71. Every harbour authority and canal company shall, in addition to any other powers they may have for the like purpose, have power to provide carriages, ships, and boats for the conveyance, loading, or unloading of an explosive within the jurisdiction of such authority or company, and may charge a reasonable sum fixed by a byelaw under this Act for the use of such carriage, ship, or boat.

Provision of  
magazines by  
local authority.

72. Where any local authority other than justices in petty sessions satisfy the Secretary of State that the erection of a magazine by such authority, either within or without their jurisdiction, for the keeping of any explosive, would conduce to the safety of the public within their jurisdiction, and would not be injurious to any harbour or urban sanitary district out of their jurisdiction, the Secretary of State may grant a licence under this Act for such magazine.

Where the magazine is without the jurisdiction of the local authority erecting the same, the assent of the local authority within whose jurisdiction the site is situate to such site shall be applied for in manner provided by this Act, and when the magazine is within the said jurisdiction notice of the application to the Secretary of State for the licence shall be given in like manner as notice of the intention to apply for the assent of the local authority to a site is required by this Act to be given.

(b) **Metropolitan consolidated rate.**—Now the special county rate. Loc. Govt. Act, 1888, secs. 3 (1), 41 (3), and 68 (3), *ante*, vol. i.

The local authority may, for the purpose of any such licence, acquire any land or right over land, or appropriate any land or right belonging to them, and acquire or build a magazine, and may maintain and manage such magazine, and may charge for the use by persons of any such magazine such reasonable sums as they may from time to time, with the approval of the Secretary of State, fix.

Such sums shall be applied in aid of the local rate, and the expenses incurred for the purposes of this section may be defrayed out of the local rate, and the local authority may borrow on the security of the local rate the amount required for the purpose of acquiring any land or right over land, or acquiring or building a magazine in pursuance of this section.

Any such loan shall be made with the approval, in the case of a council, of the Treasury, and in the case of improvement commissioners, of the Local Government Board, and in the case of a harbour authority, of the Board of Trade.

For the purpose of such borrowing (c) the clauses of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners, shall be incorporated with this Act, and in the construction of those clauses for the purpose of this Act, this Act shall be deemed to be the special Act, and the local authority which is borrowing shall be deemed to be the commissioners.

For the purpose of the purchase of any land or right over land for the purpose of this section "The Lands Clauses Consolidation Act, 1845," and the Acts amending the same (except so much as relates to the purchase of land otherwise than by agreement), shall be incorporated with this section, and in construing those Acts for the purposes of this section the special Act shall be construed to mean this Act, and the promoters of the undertaking shall be construed to mean the local authority, and land shall be construed to include any right over land.

Where any offence under this Act is committed in or about any magazine erected in pursuance of this section, such offence may be prosecuted and tried and the penalty and forfeiture therefor recovered either in the county or place in which the magazine is situate, or in any adjoining county or place.

#### *General Power of Search.*

**73.** Where any of the following officers—namely, any Government inspector, or any constable (d) or any officer of the local authority, if such constable or officer is specially authorised either (a) by a warrant of a justice (which warrant such justice may grant upon reasonable ground being assigned on oath), or (b) (where it appears to a superintendent or other officer of police of equal or superior rank, or to a Government inspector, that the case is one of emergency and that the delay in obtaining a warrant would be likely to endanger life) by a written order from such superintendent, officer, or inspector—has reasonable cause to believe that any offence has been or is being committed with respect to an explosive in any place (whether a building or not, or a carriage, boat, or ship), or that any explosive is in any such place in contravention of this Act, or that the provisions of this Act are not duly observed in any such place, such officer may, on producing, if demanded, in the case of a Government inspector a copy of his appointment, and in the case of any other officer his authority, enter at any time, and if needs be by force, and as well on Sunday as on other days, the said place, and every part thereof, and examine the same, and search for explosives therein, and take samples of any explosive and ingredient of an explosive therein, and any substance reasonably supposed to be an explosive, or such ingredient which may be found therein.

Any person who, by himself or by others, fails to admit into any place occupied by or under the control of such person any officer demanding to enter in pursuance of this section, or in any way obstructs such officer in the execution

38 Vict. c. 17.

Search for explosive when in place in contravention of this Act, or offence being committed with respect to it.

(c) **Borrowing.**—The borrowing powers of the London County Council are regulated by the Loc. Govt. Act, 1888, sec. 40 (9), *ante*, vol. i.

(d) **Any constable.**—Every superintendent or inspector belonging to the metropolitan police force, with such constables as he shall think necessary, may at any time between sunrise and sunset enter any ship (except Her Majesty's ships) in the Thames docks, or creeks, within the metropolitan police district, search for and seize unlawful quantities of explosives. Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), sec. 34, as amended by sec. 86 of the present Act, *post*.

38 Vict. c. 17. of his duty under this section, shall be liable to a penalty not exceeding fifty pounds, and shall also be liable to forfeit all explosives, and ingredients thereof, which are at the time of the offence in his possession or under his control at the said place.

Where a constable or officer of the local authority specially authorised by written authority other than a warrant of a justice of the peace, enters and searches as above provided, a special report in writing of every act done by such constable or officer in pursuance of that authority, and of the grounds on which it is done, shall be forthwith sent by the person by whom or under whose authority it was done to the Secretary of State.

Seizure and detention of explosives liable to forfeiture.

74. Where any of the following officers, namely, any Government inspector, or any constable (e), or any officer of the local authority, has reasonable cause to believe that any explosive or ingredient of an explosive or substance found by him is liable to be forfeited under this Act, he may seize and detain the same until some court of summary jurisdiction has determined whether the same is or is not so liable to be forfeited, and with respect thereto the following provisions shall have effect :

- (1) The officer seizing may either require the occupier of the place in which it was seized (whether a building or not, or a carriage, boat, or ship) to detain the same in such place or in any place under the control of such occupier, or may remove it in such manner and to such place as will in his opinion least endanger the public safety, and there detain it, and may, where the matter appears to him to be urgent and fraught with serious public danger, and he is a Government inspector, or is authorised by an order from a Government inspector or a justice of the peace, or from a superintendent or other officer of police of equal or superior rank, cause the same to be destroyed or otherwise rendered harmless ; but before destroying or rendering harmless the same he shall take and keep a sample thereof, and shall, if required, give a portion of the sample to the person owning the explosive, or having the same under his control at the time of the seizure ; and any such occupier who, by himself or by others, fails to keep the same when he is required in pursuance of this section to detain it, and any such occupier or other person who, except with the authority of the officer seizing the same, or of a Government inspector, or in case of emergency for the purpose of preventing explosion or fire, removes, alters, or in any way tampers or deals with the same while so detained, shall be liable to a penalty not exceeding fifty pounds, and shall also be liable to forfeit all explosives, and ingredients thereof, which are at the time of the offence in his possession or under his control at the said place ;
- (2) The proceedings before a court of summary jurisdiction for determining whether the same is or is not liable to forfeiture shall be commenced as soon as practicable after the seizure ; and
- (3) The receptacles containing the same may be seized, detained, and removed in like manner as the contents thereof ; and
- (4) The officer seizing the same may use for the purposes of the removal and detention thereof any ship, boat, or carriage in which the same was seized, and any tug, tender, engine, tackle, beasts, and accoutrements belonging to or drawing or provided for drawing such ship, boat, or carriage, and shall pay to the owner a reasonable compensation for such use, to be determined, in case of dispute, by a court of summary jurisdiction, and to be recovered in like manner as penalties under this Act ; and
- (5) The same shall, so far as practicable, be kept and conveyed in accordance with this Act, and with all due precaution to prevent accident, but the person seizing, removing, detaining, keeping, or conveying the same shall not be liable to any penalty, punishment, or forfeiture under this or any other Act, or to any damages, for keeping or conveying the same, so that he use all such due precautions as aforesaid ; and
- (6) The officer seizing the same, or dealing with the same in pursuance of this section, shall not be liable to damages or otherwise in respect of such seizure or dealing, or any act incidental to or consequential thereon, unless it is proved that he made such seizure without reasonable cause,

(e) Any constable.—See note (d) on p. 833.



or that he caused damage to the article seized by some wilful neglect or default. 38 Vict. c. 17.

75. Any of the following officers, namely, any Government inspector under this Act, any chief officer of police (*f*), and any superior officer appointed for the purposes of this Act . . . by the local authority itself, may, for the purpose of ascertaining whether the provisions of this Act with respect to the conveyance, loading, unloading, and importation of an explosive are complied with, enter, inspect, and examine at any time, and as well on Sundays as on other days, the wharf, carriage, ship, or boat of any carrier or other person who conveys goods for hire, or of the occupier of any factory, magazine, or store, or of the importer of any explosive, on or in which wharf, carriage, ship, or boat he has reasonable cause to suppose an explosive to be for the purpose of or in course of conveyance, but so as not to unnecessarily obstruct the work or business of any such carrier, person, occupier, or importer.

Inspection of wharf, carriage, boat, &c. with explosives *in transitu*.

Any such officer, if he find any offence being committed under this Act in any such wharf, carriage, ship, or boat, or on any public wharf, may seize and detain or remove the said carriage, ship, or boat, or the explosive, in such manner and with such precautions as appear to him to be necessary to remove any danger to the public, and may seize and detain the said explosive, as if it were liable to forfeiture.

Any officer above mentioned in this section, and any officer of police, or officer of the local authority who has reasonable cause to suppose that any offence against this Act is being committed in respect of any carriage (not being on a railway) or any boat conveying, loading, or unloading any explosive, and that the case is one of emergency, and that the delay in obtaining a warrant will be likely to endanger life, may stop, and enter, inspect, and examine such carriage or boat, and by detention or removal thereof or otherwise take such precautions as may be reasonably necessary for removing such danger, in like manner as if such explosive were liable to forfeiture.

Every officer shall for the purpose of this section have the same powers and be in the same position as if he were authorised by a search warrant granted under this Act, and any person failing to admit or obstructing such officer shall be liable to the same penalty.

76. When a Government inspector, constable, or officer of the local authority in pursuance of this Act takes samples of any explosive, or ingredient, or substance, he shall pay for or tender payment for the same to such amount as he considers to be the market value thereof, and the occupier of the place in which, or the owner of the bulk from which, the sample was taken, may recover any excess of the real value over the amount so paid or tendered, and any amount so tendered, from the inspector, constable, or officer taking the sample as a debt in the county court of the district within which the sample was taken.

Payment for samples of explosives.

#### PART IV.

#### SUPPLEMENTAL PROVISIONS, LEGAL PROCEEDINGS, EXEMPTIONS, AND DEFINITIONS.

##### *Supplemental Provisions.*

77. Any person who enters without permission or otherwise trespasses upon any factory, magazine, or store, or the land immediately adjoining thereto which is occupied by the occupier of such factory, magazine, or store, or on any wharf for which byelaws are made by the occupier thereof under this Act, shall for every such offence, if not otherwise punishable, be liable to a penalty not exceeding five pounds, and may be forthwith removed from such factory, magazine, store, land, or wharf, by any constable, or by the occupier of such factory, magazine, store, or wharf, or any agent or servant of or other person authorised by such occupier.

Penalty on and removal of trespassers.

Any person other than the occupier of or person employed in or about any factory, magazine, or store who is found committing any act which tends to cause explosion or fire in or about such factory, magazine, or store, shall be liable to a penalty not exceeding fifty pounds.

(*f*) Chief officer of police.—See note to sec. 73, *supra*.

38 Vict. c. 17.

The occupier of any such factory, magazine, store, or wharf shall post up in some conspicuous place or places a notice or notices warning all persons of their liability to penalties under this section; but the absence of any such notice or notices shall not exempt a person from a penalty under this section.

Arrest without warrant of persons committing dangerous offences.

**78.** Any person who is found committing any act for which he is liable to a penalty under this Act, and which tends to cause explosion or fire in or about any factory, magazine, store, railway, canal, harbour, or wharf, or any carriage, ship, or boat, may be apprehended without a warrant by a constable, or an officer of the local authority, or by the occupier of or the agent or servant of or other person authorised by the occupier of such factory, magazine, store, or wharf, or by any agent or servant of or other person authorised by the railway or canal company or harbour authority, and be removed from the place at which he is arrested, and conveyed as soon as conveniently may be before a court of summary jurisdiction.

Imprisonment for wilful act or neglect endangering life or limb.

**79.** Where any person is guilty of any offence which under this Act is punishable by a pecuniary penalty only, and which, in the opinion of the court that tries the case, was reasonably calculated to endanger the safety of or to cause serious personal injury to any of the public or the persons employed in or about any factory, magazine, store, or registered premises, or any harbour, railway, canal, wharf, ship, boat, carriage, or place where such offence is committed, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a pecuniary penalty will not meet the circumstances of the case, to imprisonment, with or without hard labour, for a period not exceeding six months.

Penalty for throwing fireworks in thoroughfare.

**80.** If any person throw, cast, or fire any fireworks in or into any highway, street, thoroughfare, or public place, he shall be liable to a penalty not exceeding five pounds.

Forgery and falsification of documents.

**81.** Every person who forges or counterfeits any licence, certificate, document, or plan granted or required in pursuance or for the purposes of this Act, or gives or signs any such document or plan which is to his knowledge false in any material particular, or wilfully makes use of any such forged, counterfeit, or false licence, certificate, document, or plan, shall be liable to imprisonment, with or without hard labour, for a term not exceeding two years.

Punishment for defacing notices.

**82.** Every person who, without due authority, pulls down, injures, or defaces any notice, copy of rules, or document, when affixed in pursuance of this Act, or of the special rules, shall be liable to a penalty not exceeding two pounds.

Provisions as to Orders in Council and orders of Secretary of State.

**83.** Her Majesty may from time to time make Orders in Council for doing anything which is in this Act expressed to be authorised, directed, regulated, prescribed, or done by Order in Council.

Every Order in Council or order of the Secretary of State which purports to be made in pursuance of this Act shall be presumed to have been duly made and to be within the powers of this Act, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.

Every Order in Council made in pursuance of this Act shall take effect as if it were enacted in this Act, and shall be published in the London Gazette, and shall be laid before both Houses of Parliament within one month after it is made, if Parliament be then sitting, or if not, within one month after the commencement of the then next session of Parliament.

Her Majesty may by Order in Council, and a Secretary of State may by order, from time to time revoke, add to, or alter any previous Orders in Council or orders of the Secretary of State, as the case may be, under this Act.

Publication of byelaws, notices, &c.

**84.** All byelaws, notices, and documents directed by this Act to be published or advertised shall, save as otherwise provided by this Act, be published in the place which such notices and documents affect, by advertisement in some newspapers circulating generally in such place, or by placards or handbills, or in such manner as the Secretary of State may from time to time direct as being in his opinion sufficient for giving information thereof to all persons interested (*g*).

(*g*) **Secretary of State may direct.**—The regulations of the Secretary of State under this section are published in order dated May 20th, 1876 (*Lond. Gaz.*, May 23rd, 1876, p. 3110).

**85.** All orders, permissions, notices, and documents issued or given by the Secretary of State for the purposes of this Act, and all notices under this Act, shall be in writing or print, or partly in writing and partly in print, and all notices and documents required by this Act to be served, given, or sent by, on, or to a Government inspector or Secretary of State may be sent by post, by a prepaid letter, and if sent by post shall be deemed to have been served, given, and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service, giving, or sending, it shall be sufficient to prove that the letter containing the notice was properly addressed and prepaid and put into the post.

All notices and documents directed by or required for the purposes of this Act to be given or sent to the Secretary of State, shall, if sent to a Government inspector under this Act, be deemed to have been sent to the Secretary of State.

All notices and documents directed by or required for the purposes of this Act to be given or sent to a local authority may be sent, by post or otherwise, to the clerk or office of the local authority, or delivered to some person employed by them for the purposes of this Act.

**86.** Where any enactment refers to any power of searching for gunpowder, or to any provisions of an Act of the twelfth year of King George the Third, chapter sixty-one (*h*), or of any Act repealed by this Act relative to the search for gunpowder, such enactment shall be deemed to refer to the provisions of this Act with respect to the search for and seizure, detention, and removal of an explosive by a Government inspector.

38 Vict. c. 17.

Requisitions, notices, &c. to be in writing, &c., and how to be served.

Construction of enactments referring to powers of searching for gunpowder.

#### *Legal Proceedings.*

**87.** Where any offence under this Act for which the occupier of any factory, magazine, store, or registered premises is liable to a penalty or forfeiture has in fact been committed by some other person, such other person shall be liable to a penalty not exceeding twenty pounds.

Where such occupier is charged with an offence so committed by some other person, the occupier shall be exempt from any penalty and forfeiture upon proving that he had supplied proper means and issued proper orders for the observance and used due diligence to enforce the observance of this Act, and that the offence in question was actually committed by some other person without his connivance, and if the actual offender be alive, that he has taken all practicable means in his power to prosecute such offender to conviction.

Where a Government inspector, or an officer of the local authority, or the local authority, is satisfied, before instituting a proceeding for an offence under this Act against an occupier, that such occupier, if such proceeding were instituted against him, would, under the foregoing provisions of this section, upon taking all practicable means in his power to prosecute the actual offender to conviction, be exempt from any penalty and forfeiture, and the occupier gives all facilities in his power for proceeding against and convicting the person whom the inspector, officer, or local authority believes actually to have committed the offence, the inspector, officer, or local authority shall proceed against that person in the first instance, without first proceeding against the occupier.

The occupier or other defendant, when charged in respect of any offence by another person, may, if he think fit, be sworn and examined as an ordinary witness in the case.

Where any offence under this Act for which any warehouseman, carrier, occupier of a wharf or dock, or owner or master of any ship, boat, or carriage, is liable to a penalty or forfeiture, has in fact been committed by some other person, this section shall apply in like manner as if the warehouseman, carrier, occupier of a wharf or dock owner, or master were such an occupier as above in this section mentioned.

**88.** Where a carrier or owner or master of a ship or boat is prevented from complying with this Act by the wilful act, neglect, or default of the consignor or consignee of the explosive, or other person, or by the improper refusal of the consignee or other person to accept delivery of the explosive, such consignor, consignee, or other person who is guilty of such wilful act, neglect,

Exemption of occupier from penalty upon proof of another being real offender.

Exemption of carrier and owner and master of ship where consignee, &c. in fault.

(*h*) **12 Geo. 3, c. 61.**—This Act is referred to in the Metropolitan Police Act, 1839, sec. 34. See note to sec. 73, *ante*.



38 Vict. c. 17. default, or refusal shall be liable to the same penalty to which the carrier, owner, or master is liable for a breach of this Act, and his conviction shall exempt the carrier, owner, or master from any penalty or forfeiture under this Act.

Supplemental provisions as to forfeiture of explosive.

**89.** Where a court before whom a person is convicted of an offence against this Act has power to forfeit any explosive owned by or found in the possession or under the control of such person, the court may, if it think it just and expedient, in lieu of forfeiting such explosive, impose upon such person, in addition to any other penalty or punishment, a penalty not exceeding such sum as appears to the court to be the value of the explosive so liable to be forfeited.

Where any explosive, or ingredient of an explosive, is alleged to be liable under this Act to be forfeited, any indictment, information, or complaint may be laid against the owner of such explosive or ingredient, for the purpose only of enforcing such forfeiture, and where the owner is unknown, or cannot be found, a court may cause a notice to be advertised, stating that unless cause is shown to the contrary at the time and place named in the notice, such explosive will be forfeited, and at such time and place the court, after hearing the owner or any person on his behalf (who may be present), may order all or any part of such explosive or ingredient to be forfeited.

Jurisdiction in tidal waters or on boundaries.

**90.** For all the purposes of this Act—

- (1) Any harbour, tidal water, or inland water which runs between or abuts on or forms the boundary of the jurisdiction of two or more courts shall be deemed to be wholly within the jurisdiction of each of such courts; and
- (2) Any tidal water not included in the foregoing descriptions, and within the territorial jurisdiction of Her Majesty, and adjacent to or surrounding any part of the shore of the United Kingdom, and any pier, jetty, mole, or work extended into the same, shall be deemed to form part of the shore to which such water or part of the sea is adjacent, or which it surrounds.

Prosecution of offences either summarily or on indictment.

**91.** Every offence under this Act may be prosecuted and every penalty under this Act may be recovered, and all explosives and ingredients liable to be forfeited under this Act may be forfeited either on indictment or before a court of summary jurisdiction, in manner directed by the Summary Jurisdiction Acts.

Provided that the penalty imposed by a court of summary jurisdiction shall not exceed one hundred pounds exclusive of costs, and exclusive of any forfeiture or penalty in lieu of forfeiture, and the term of imprisonment imposed by any such court shall not exceed one month.

All costs and money directed to be recovered as penalties may be recovered before a court of summary jurisdiction in manner directed by the Summary Jurisdiction Acts.

A court of summary jurisdiction may by order prohibit a person from doing any act for doing which such person has twice been convicted under this Act, and may order any person disobeying such summary order to be imprisoned for any period not exceeding six months.

Power of offender in certain cases to elect to be tried on indictment, and not by summary jurisdiction.

**92.** Where a person is accused before a court of summary jurisdiction of any offence under this Act, the penalty for which offence as assigned by this Act, exclusive of forfeiture, exceeds one hundred pounds, the accused may, on appearing before the court of summary jurisdiction, declare that he objects to being tried for such offence by a court of summary jurisdiction, and thereupon the court of summary jurisdiction may deal with the case in all respects as if the accused were charged with an indictable offence and not an offence punishable on summary conviction, and the offence may be prosecuted on indictment accordingly.

Appeal to quarter sessions.

**93.** If any party feels aggrieved by any summary order made by a court of summary jurisdiction under this Act, or by any order or conviction made by a court of summary jurisdiction in determining any complaint or information under this Act, by which order or conviction the sum adjudged to be paid, including costs, and including the value of any forfeiture, exceeds twenty pounds, the party so aggrieved may appeal therefrom to quarter sessions (i) . . .

(i) **Appeal to quarter sessions.**—The remainder of this section is repealed by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 4. For the time and manner of appealing to quarter sessions, see note to sec. 227 of the Met. Man. Act, 1855, ante, vol. i.

94. The court of summary jurisdiction, when hearing and determining an information or complaint, in respect of any offence under this Act, shall be constituted either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.

38 Vict. c. 17.

Constitution of court.

95. Where the owner or master of a ship or boat is adjudged to pay a penalty for an offence committed with or in relation to such ship or boat, the court may, in addition to any other power they may have for the purpose of compelling payment of such penalty, direct the same to be levied by distress or arrestment and sale of the said ship or boat and her tackle.

Distress of ship.

96. All penalties imposed in pursuance of this Act by a court of summary jurisdiction upon the prosecution of a Government inspector shall, notwithstanding anything in any other Act, be paid into the receipt of Her Majesty's Exchequer, in such manner as the Treasury may from time to time direct, and be carried to the consolidated fund.

Application of penalties and disposal of forfeitures.

Any explosive or ingredient forfeited in pursuance of this Act may be sold, destroyed, or otherwise disposed of in such manner as the court declaring the forfeiture, or the Secretary of State, may direct, and the proceeds of any such sale or disposal shall be paid, applied, and accounted for in like manner as penalties under this Act.

The receptacle containing any such explosive or ingredients may be forfeited, sold, destroyed, or otherwise disposed of, in like manner as the contents thereof.

The provisions of part three of this Act with respect to an explosive, or ingredient of an explosive, seized in pursuance of this Act, and to the officer seizing, removing, detaining, keeping, or conveying, or otherwise dealing with the same, shall apply to any explosive and ingredient declared by any court to be forfeited, and to the officer removing, detaining, keeping, conveying, selling, destroying, or otherwise disposing of the same.

The court declaring the forfeiture, or the Secretary of State directing the sale or other disposal of any forfeited explosive or ingredient, and the receptacles thereof, may require the owner of such explosive or ingredient to permit the use of any ship, boat, or carriage containing such explosive or ingredient for the purpose of such sale or disposal, upon payment of a reasonable compensation for the same, to be determined in case of dispute by a court of summary jurisdiction; and where the explosive or ingredient is directed to be destroyed, the owner and the person having possession of such explosive or ingredient, and the owner and master of the ship, boat, or carriage containing the same, or some or one of them, shall destroy the same accordingly, and if the court or Secretary of State so order, the ship, boat, or carriage may be detained until the same is so destroyed; and if the Secretary of State is satisfied that default has been made in complying with any such direction by him or by a court, and that the detention of the ship, boat, or carriage will not secure the safety of the public, and that it is impracticable, having regard to the safety of the public or of the persons employed in such destruction, to effect the same without using such ship, boat, or carriage, or otherwise dealing with such ship, boat, or carriage, in like manner as if it were a receptacle for an explosive forfeited under this Act, the Secretary of State may direct such ship, boat, and carriage, or any of them, to be, and the same may accordingly be, so used or dealt with.

*Exemptions and Savings.*

97. This Act shall not apply—

- (1) To any factory, magazine, store, premises, wharf, place, or explosive under the control of a Secretary of State, the Admiralty, or other department of the Government, or otherwise held for the service of the Crown, or to the manufacture, keeping, or importation of such explosive; or
- (2) To any of Her Majesty's ships, boats, or carriages; or
- (3) To the keeping or making up, or adapting for the use of any explosive issued by or by the authority of the Secretary of State for the use of any volunteer corps or administrative regiment, or by or by the authority of the Commissioners of the Admiralty for the use of any force under the control of those commissioners, so far as such explosive is kept, made up, and adapted

Exemption of Government factories, &c. from the Act.

38 Vict. c. 17.

26 & 27 Vict.  
c. 65.

for use in accordance with the regulations of the Secretary of State or the said commissioners, as the case may be; or

- (4) To any storehouse appointed for receiving any such explosive as last above mentioned in pursuance of section twenty-six of the Volunteer Act, 1863, and any Act amending the same, or otherwise, if such storehouse is approved by the Secretary of State or the Commissioners of the Admiralty, as the case may be, as a fit place for the storing of such explosive, and is managed in accordance with the regulations of a Secretary of State or such commissioners for the management of such storehouses, or for the management of the like storehouses appointed for the use of Her Majesty's army or navy; or
- (5) To the conveyance of any explosive under the control of a Secretary of State, the Admiralty, or other department of the Government, or to the conveyance of any explosive otherwise held for the service of the Crown when the same is being conveyed in accordance with the regulations of a Secretary of State or the Admiralty or other department of the Government:

Provided that every person who enters without permission or otherwise trespasses upon any factory, magazine, or storehouse above in this section mentioned or the land immediately adjoining thereto in the occupation of the Crown or of a Secretary of State or the Admiralty or other department of the Government, or if it adjoin such a storehouse in the occupation of the officer or person in whom such storehouse is vested, and any person found committing any act tending to cause explosion or fire in or about such factory, magazine, or storehouse, shall be liable to the like penalty, and may be removed and arrested in like manner as if this section had not been enacted and this Act applied to such factory, magazine, or storehouse, as above in this section mentioned.

Saving for  
rocket and  
fog stations.

**98.** This Act shall not apply—

- (1) To the keeping of any rockets for use in any apparatus for saving life, kept under the control of the Admiralty or the Board of Trade; or
- (2) To the keeping of any explosive kept for the purpose of signalling at or near a station on the sea coast, under the control of any general lighthouse authority, as defined by the Merchant Shipping Act, 1854.

17 & 18 Vict.  
c. 104, s. 389.

**99.** [*Exemption of magazines in the Mersey.*]

Saving for  
master of ship  
and carrier in  
case of  
emergency.

**100.** Nothing in this Act shall render liable to any penalty or forfeiture the owner or master of any ship or boat, or any carrier or warehouseman, or the person having charge of any carriage, for any act done in breach of this Act, if he prove that by reason of stress of weather, inevitable accident, or other emergency, the doing of such act was, under the circumstances, necessary and proper.

Saving for  
rockets, gun-  
powder, &c. on  
board ship in  
compliance  
with 17 & 18  
Vict. c. 104.

**101.** Where any gunpowder, rockets, or other explosive are on board any ship in pursuance of the provisions of the Merchant Shipping Act, 1854 (*k*), and the Acts amending the same, or any order or regulation made under any of those Acts, nothing in this Act shall apply to such gunpowder, rockets, or explosive, except that the conveyance and keeping thereof on board the ship or elsewhere while the ship is in harbour shall be subject to the byelaws under this Act, and byelaws under this Act may be made for regulating such conveyance and keeping.

Saving clause  
as to liability.

**102.** This Act shall not, save as is herein expressly provided, exempt any person from any action or suit in respect of any nuisance, tort, or otherwise, which might, but for the provisions of this Act, have been brought against him.

This Act shall not exempt any person from any indictment or other proceeding for a nuisance (*l*), or for an offence which is indictable at common law, or by any Act of Parliament other than this Act, so that no person be punished twice for the same offence.

When proceedings are taken before any court against any person in respect of any offence under this Act, which is also an offence indictable at common law or by some Act of Parliament other than this Act, the court may direct that,

(*k*) **Merchant Shipping Act, 1854.**—This Act is repealed and replaced by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60).

(*l*) **Nuisance.**—The deposit or storing of any substance which is a serious danger to life or property is an indictable offence (*Reg. v. Lister*, 26 L. J. M. C. 196; 3 Jur. (N. S.) 570), and will be restrained by injunction. *Crowder v. Tinkler*, 19 Ves. 617; *Heppburn v. Lordon*, 2 H. & M. 345; 34 L. J. Ch. 293.



instead of such proceedings being continued, proceedings shall be taken for indicting such person at common law or under some Act of Parliament other than this Act. 38 Vict. c. 17.

A continuing certificate granted under this Act shall not make lawful any factory, magazine, or store, or any part thereof, which immediately before the passing of this Act was unlawful.

**103.** All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on any local authority by Act of Parliament, but the Secretary of State may, on the application of any local authority, or of any council of a borough, or any urban sanitary authority, or on the application of any persons making, keeping, importing, exporting, or selling any explosive within the jurisdiction of any local authority, council, or urban sanitary authority, after notice to such authority, make an order for repealing, altering, or amending all or any of the provisions of any Act of Parliament, charter, or custom respecting the manufacture, keeping, conveyance, importation, exportation, or sale of an explosive, or the powers of such council or authority for regulating the same, or otherwise in relation to an explosive.

Powers of Act cumulative, with power to make provisional order for repealing local Acts.

Notice of the draft of every such order shall be advertised not less than one month before the order is made, and the Secretary of State shall consider all objections to such draft order sent to him in writing during the said month, and shall, if it seem to him necessary, direct a local inquiry into the validity of any such objections.

Any such order shall be of no force unless confirmed by Parliament, but when so confirmed shall have effect with such modifications or alterations as may be therein made by Parliament.

If while a bill confirming any such order is pending in either House of Parliament, a petition is presented against such order, the bill, so far as it relates to such order, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose the same as in the case of a bill for a private Act.

An order under this section may also be made for revoking or altering an order under this section previously made and confirmed by Parliament.

#### Definitions.

**104.** Her Majesty may, by Order in Council, declare that any substance which appears to Her Majesty to be specially dangerous to life or property by reason either of its explosive properties, or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act, and the provisions of this Act (subject to such exceptions, limitations, and restrictions as may be specified in the order) shall accordingly extend to such substance in like manner as if it were included in the term explosive in this Act (*m*).

Extension of definition of explosive to other explosive substances.

**105.** Any person who carries on any of the following processes, namely, the process of dividing into its component parts or otherwise breaking up or unmaking any explosive, or making fit for use any damaged explosive, or the process of remaking, altering, or repairing any explosive, shall be subject to the provisions of this Act as if he manufactured an explosive, and the expression "manufacture" shall in this Act be construed accordingly.

Persons carrying on certain processes to be deemed manufacturers.

**106.** It shall be lawful for Her Majesty from time to time, by Order in Council, to define, for the purposes of this Act, the composition, quality, and character of any explosive, and to classify explosives (*n*).

Definition and classification of explosives by Order in Council.

Where the composition, quality, or character of any explosive has been defined by an Order in Council, any article alleged to be such explosive which differs from such definition in composition, quality, or character, whether by reason of deterioration or otherwise, shall not be deemed, for the purposes of this Act, to be the explosive so defined.

(*m*) **Order in Council.**—See O. in C. No. 14, Dec. 29th, 1887, *ante*, p. 810.

(*n*) **Classifying explosives.**—Order in Council No. 1, Aug. 5th, 1875 (*Lond. Gaz.*, Aug. 10th, 1875), divides explosives into seven classes, viz. (1) gunpowder, (2) nitrate-mixture, (3) nitro-compound, (4) chlorate-mixture, (5) fulminate, (6) ammunition (7) firework; and further defines each class and the explosives comprised thereunder.

38 Vict. c. 17.

Definition of  
"chief officer  
of police."

"Police  
district."

General  
definitions.

**107. In this Act—**

The expression "chief officer of police" means—

- (1) In the City of London and the liberties thereof, the commissioner of City police; and
- (2) In the metropolitan police district, the commissioner or any assistant commissioner or any district superintendent of metropolitan police; and
- (3) Elsewhere the chief constable, or head constable, or other officer, by whatever name called, having the chief command of the police in the police district in reference to which such expression occurs:

The expression "police district" means—

- (1) The City of London and the liberties thereof; and
- (2) The metropolitan police district; and
- (3) Any county, or liberty of a county, borough, town, place, or union, or combination of places maintaining a separate police force; and all the police under one chief constable shall be deemed to constitute one force for the purposes of this section.

**108. In this Act, unless the context otherwise requires—**

The expression "this Act" includes any licence, certificate, byelaw, regulation, rule, and order granted or made in pursuance of this Act:

The expression "existing" means existing at the passing of this Act:

The expression "person" includes a body corporate:

The expression "occupier" includes any number of persons and a body corporate; and in the case of any manufacture or trade, includes any person carrying on such manufacture or trade:

The expression "master" includes every person (except a pilot) having command or charge of a ship, and in reference to any boat belonging to a ship, means the master of the ship; and when used in reference to any other boat, includes every person having command or charge of such boat:

The expression "magazine" includes any ship or other vessel used for the purpose of keeping any explosive:

The expression "factory magazine" means a building for keeping the finished explosive made in the factory, and includes, if such explosive is not gunpowder, any building for keeping the partly manufactured explosive or the ingredients of such explosive which is mentioned in that behalf in the licence:

The expression "store" means an existing gunpowder store as defined by this Act, or a place for keeping an explosive licensed by a licence granted by a local authority under this Act:

\* \* \* \* \*

The expression "warehouseman" includes all persons owning or managing any warehouse, store, wharf, or other premises in which goods are deposited:

The expression "carrier" includes all persons carrying goods or passengers for hire by land or water:

The expression "harbour authority" means any person or body of persons, corporate or unincorporate, being or claiming to be proprietor or proprietors of or intrusted with the duty or invested with the power of improving, managing, maintaining, or regulating any harbour properly so called, whether natural or artificial, and any port, haven, and estuary, or intrusted with the duty of conserving, maintaining, or improving the navigation of any tidal water, and any such harbour, port, haven, estuary, tidal water, and any wharf, dock, pier, jetty, and work, and other area, whether land or water, over which the harbour authority as above defined have control or exercise powers, are in the other portions of this Act included in the expression "harbour":

The expression "canal company" means any person or body of persons, corporate or unincorporate, being owner or lessee or owners, or lessees of, or working, or entitled to charge tolls for the use of any canal in the United Kingdom, constructed or carried on under the powers of any Act of Parliament, or intrusted with the duty of conserving, maintaining, or improving the navigation of any inland water, and every such canal and inland water under the control of a canal company as above defined, and any wharf, dock, pier, jetty, and work in or at which barges do or can ship or unship goods or passengers, and other area, whether land or water,

which belong to or are under the control of such canal company, are in the other portions of this Act included in the expression "canal": 38 Vict. c. 17.

The expression "tidal water" means any part of the sea or of a river within the ebb and flow of the tides at ordinary spring tides:

The expression "inland water" means any canal, river, navigation, lake, or water which is not tidal water:

The expression "railway company" means any person or body of persons, corporate or unincorporate, being the owner or lessee or owners or lessees of or working any railway worked by steam or otherwise than by animal power in the United Kingdom, constructed or carried on under the powers of any Act of Parliament and used for public traffic, and every building, station, wharf, dock, and place which belong to or are under the control of a railway company, are in the other portions of this Act included in the expression "railway":

The expression "wharf" includes any quay, landing-place, siding, or other place at which goods are landed, loaded, or unloaded:

The expression "carriage" includes any carriage, waggon, cart, truck, vehicle, or other means of conveying goods or passengers by land, in whatever manner the same may be propelled:

The expression "ship" includes every description of vessel used in sea navigation, whether propelled by oars or otherwise:

The expression "boat" means every vessel not a ship as above defined which is used in navigation in any inland water or any harbour, whether propelled by oars or otherwise:

The expression "prescribed" means prescribed by Order in Council:

The expression "borough" means . . .

The expression "county" does not include a county of a city or a county of a town:

\* \* \* \* \*

The expression "safety cartridges" means cartridges for small arms of which the case can be extracted from the small arm after firing, and which are so closed as to prevent any explosion in one cartridge being communicated to other cartridges:

The expression "Gunpowder Act, 1860," means the Act of the session of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter one hundred and thirty-nine, intituled "An Act to amend the law concerning the making, keeping, and carriage of gunpowder and compositions of an explosive nature, and concerning the manufacture, sale, and use of fireworks," and the Acts amending the same.

109—115. [*Application of Act to Scotland.*]

116—121. [*Application of Act to Ireland.*]

122. [*Repeal of Acts. Rep. 56 & 57 Vict. c. 54. Statute Law Revision.*]

## SCHEDULES.

### FIRST SCHEDULE.

#### PART I.

##### *Gunpowder Factories.*

Regulations which are to form part of the terms of every continuing certificate of a factory for gunpowder.

(1) The quantity of gunpowder or ingredients to be made into gunpowder to be at one time under any single pair of mill stones or rollers or runners shall not exceed fifty pounds as respects sporting and Government powder, and sixty pounds as respects all inferior powders; and every incorporating mill or group of incorporating mills shall be provided with a charge house for the store of mill charges, properly constructed of stone or brick, and situate at a safe and suitable distance from each incorporating mill or group of incorporating mills.

(2) The quantity of gunpowder to be subjected to pressure at one time in any press house shall not exceed ten hundredweight.

(3) The quantity of gunpowder to be corned or granulated at one time in any corning or granulating house shall not exceed twelve hundredweight.



38 Vict. c. 17.

(4) The quantity of gunpowder to be dried at one time in one stove or place used for the drying of gunpowder shall not exceed fifty hundredweight.

(5) The respective quantities to be at any one time in any press house or corning or granulating house shall not exceed twice the respective quantities hereby allowed to be subjected to pressure and to be cornd or granulated at one time; and the quantity to be at any one time in any drying house or dusting house shall not be more than is necessary for the immediate supply and work of such house; and for the purposes of this provision any building used with any such press house, corning or granulating house, drying house or dusting house, shall be deemed part thereof, save only magazines constructed with stone or brick and situate forty yards at least from every such press house or other house as aforesaid (hereinafter distinguished as expense magazines), and save only the stove in which the powder which has been dried may be cooling.

(6) Every person keeping or using any mill for the making of gunpowder shall have (in addition to the expense magazines) a good and sufficient factory magazine or magazines, situate (unless otherwise authorised by a certificate of the Secretary of State under the Gunpowder Act, 1860) as least one hundred and forty yards distant from the mill or mills and every press house and other house or place used for or in the making of gunpowder, such magazine or magazines to be well and substantially built with brick or stone, and situate in such place as may have been lawfully used or duly licensed by justices before the commencement of the Gunpowder Act, 1860, and not made unlawful by that Act, or may have been after the commencement of that Act duly licensed under the Gunpowder Act, 1860.

(7) No maker of gunpowder shall keep or permit to be kept any charcoal within twenty yards of any mill or other engine for making gunpowder, or of any press house, or drying, corning, or dusting house or other place used in or for the making of gunpowder, or any magazine or storehouse thereto belonging.

## PART II.

### *Gunpowder Stores.*

Regulations which are to form part of the terms of every continuing certificate for a gunpowder store:

- (1) The store shall be exclusively for the use of a mine, quarry, colliery, or factory for safety fuses:
- (2) The amount of gunpowder in the store shall not exceed, if the store is well and substantially built of brick or stone, four thousand pounds, and in any other case three hundred pounds:
- (3) Where the amount of gunpowder in the store exceeds three hundred pounds, such store shall, unless otherwise authorised before the passing of this Act by a certificate of the Secretary of State, be within two hundred yards of the mine, quarry, colliery, or factory for safety fuses, or one of the mines, quarries, collieries, or factories for safety fuses for the use of which such gunpowder is kept, and not within two hundred yards of any inhabited house without the consent in writing of the occupier of such house:
- (4) Where such certificate has been given, the conditions on which it was given shall be duly observed as if they were contained in this schedule:
- (5) Where the amount of gunpowder does not exceed three hundred pounds, the store shall be within two hundred yards of the mine, quarry, colliery, or factory for the use of which it is erected, and unless it was erected and used for the said purpose before the passing of the Gunpowder Act, 1860, shall not be within two hundred yards from any inhabited house without the consent in writing of the occupier of such house:
- (6) The store shall not be within the City of London or Westminster, or within three miles of either of them, or within any borough or market town or one mile of the same, or within two miles of any palace or house of residence of Her Majesty, her heirs and successors, or within two miles of any gunpowder magazine belonging to the Crown, or within half a mile of any parish church.

## SECOND SCHEDULE.

### ARBITRATION.

Provisions as  
to arbitrations.

With respect to arbitrations under this Act, the following provisions shall have effect:

- (1) The parties to the arbitration are in this section deemed to be the occupier of the factory, magazine, or store on the one hand, and on the other the Government inspector (on behalf of the Secretary of State):
- (2) Each of the parties to the arbitration may, within twenty-one days after the date of the reference, appoint an arbitrator:
- (3) No person shall act as arbitrator or umpire under this Act who is employed in or in the management of or is directly or indirectly interested in the manufacture, trade, factory, magazine, store, business, or premises to which the arbitration relates, or is in any manner interested directly or indirectly in the matter to which the arbitration relates:
- (4) The appointment of an arbitrator under this section shall be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of such other party:
- (5) The death, removal, or other change in any of the parties to the arbitration shall not affect the proceedings under this section:
- (6) If within the said twenty-one days either of the parties fail to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference, and in such case the award of the single arbitrator shall be final:
- (7) If before an award has been made any arbitrator appointed by either party die or become incapable to act, or for fourteen days refuse or neglect to act, the party by whom such arbitrator was appointed may appoint some other person to act in his place; and if he fail to do so within fourteen days after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matters in difference, and in such case the award of such single arbitrator shall be final:
- (8) In either of the foregoing cases where an arbitrator is empowered to act singly, upon one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who shall then act as if no failure had been made:
- (9) If the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned:
- (10) The arbitrators, before they enter upon the matters referred to them, shall appoint by writing under their hands an umpire to decide on points on which they may differ:
- (11) If the umpire die or become incapable to act before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the persons or person who appointed such umpire shall forthwith appoint another umpire in his place:
- (12) If the arbitrators refuse or fail or for seven days after the request of either party neglect to appoint an umpire, then on the application of either party an umpire shall be appointed by the chairman of the quarter sessions of the peace within the jurisdiction of which the factory, magazine, or store is situate:
- (13) The decision of every umpire on the matters referred to him shall be final:
- (14) If a single arbitrator fail to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place:  
The arbitrator and their umpire or any of them may examine the parties and their witnesses on oath, they may also consult any counsel, engineer, or scientific person whom they may think it expedient to consult:
- (15) The payment, if any, to be made to any arbitrator or umpire for his services shall be fixed by the Secretary of State, and together with the costs of the arbitration and award shall be paid by the parties, or one of them, according as the award may direct. Such costs may be taxed by a master of one of the superior courts, who, on the written application of either of the parties, shall ascertain and certify the proper amount of such costs. The amount, if any, payable by the Secretary of State shall be paid as part of the expenses of inspectors under this Act. The amount, if any, payable

38 Vict. c. 17.

by any other party, may in the event of non-payment be recovered in the same manner as penalties under this Act.

## THIRD SCHEDULE.

*Maximum Fees for Licences granted by the Secretary of State.*

|                                  |   |   |   |   |   |   |   |   |                 |
|----------------------------------|---|---|---|---|---|---|---|---|-----------------|
| Factory licence, original        | - | - | - | - | - | - | - | - | Ten pounds      |
| Do. amending                     | - | - | - | - | - | - | - | - | Five pounds     |
| Do. renewal when lost            | - | - | - | - | - | - | - | - | Five shillings  |
| Magazine licence, original       | - | - | - | - | - | - | - | - | Ten pounds      |
| Do. amending                     | - | - | - | - | - | - | - | - | Five pounds     |
| Do. renewal when lost            | - | - | - | - | - | - | - | - | Five shillings  |
| Importation licence, first grant | - | - | - | - | - | - | - | - | One pound       |
| Do. renewal                      | - | - | - | - | - | - | - | - | Ten shillings   |
| Continuing certificate           | - | - | - | - | - | - | - | - | Forty shillings |

## FOURTH SCHEDULE.

[Rep. 56 & 57 Vict. c. 54. Statute Law Revision.]

## FIFTH SCHEDULE.

[Rep. 46 & 47 Vict. c. 39. Statute Law Revision.]



# FACTORIES AND WORKSHOPS.

|                                                            |          |
|------------------------------------------------------------|----------|
| 35 & 36 Vict. c. 61 ("Steam Whistles Act, 1872") .....     | page 847 |
| 41 Vict. c. 16 ("Factory & Workshop Act, 1878") .....      | 847      |
| 46 & 47 Vict. c. 53 ("Factory & Workshop Act, 1883") ..... | 857      |
| 54 & 55 Vict. c. 75 ("Factory & Workshop Act, 1891") ..... | 858      |
| 58 & 59 Vict. c. 37 ("Factory & Workshop Act, 1895") ..... | 863      |

## STEAM WHISTLES ACT, 1872 (*a*).

35 & 36 Vict. c. 61. An Act to regulate the use of Steam Whistles in certain Manufactories. [6th August, 1872]

1. This Act shall not apply to Scotland.

2. No person shall use or employ in any manufactory, or any other place, any steam whistle or steam trumpet for the purpose of summoning or dismissing workmen or persons employed without the sanction of the sanitary authority (*b*), and every person offending against this section shall be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding forty shillings for every day during which such offence continues: Provided always, that the sanitary authority, in case they have sanctioned the use of any such instrument as aforesaid, may at any time revoke such sanction on giving one month's notice to the person using the same: Provided also, that it shall be lawful for the Local Government Board, on representation made to them by any person that he is prejudicially affected by such sanction, to revoke the same, and such revocation shall have the same force and effect as if it had been made by the sanitary authority.

Use of steam whistles and trumpets.

3. "Sanitary authority" means the authority at the time being empowered to execute the Nuisance Removal Acts, as defined and extended by the Sanitary Act, 1886 (*c*).

Definition.

4. All offences and penalties under this Act may be prosecuted and recovered in England in manner directed by the Summary Jurisdiction Act, 1848 (*d*), and any Acts amending the same, and in Ireland. . . .

Legal procedure.  
11 & 12 Vict.  
c. 43.

## FACTORY AND WORKSHOP ACT, 1878.

41 Vict. c. 16. An Act to consolidate and amend the Law relating to Factories and Workshops. [27th May, 1878]

### *Preliminary.*

1. This Act may be cited as the Factory and Workshop Act, 1878.

Short title.

2. [*Commencement of Act, 1st January, 1879.*]

(*a*) **Short title.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(*b*) **Any steam whistle.**—The respondents formerly used a whistle directly connected with an engine boiler, but disconnected it, and used thereafter a gas engine to compress air, and store it in a reservoir in their factory, and the same pipe connected therewith produced the same noise. *Held*, that the new arrangement was an attempted evasion of the Act, and required the consent of the sanitary authority. *Herbert v. Leigh Mills Co.*, 53 J. P. 679; 5 T. L. R. 449.

(*c*) **Sanitary Act, 1866.**—This Act, except sec. 41, and the Nuisance Removal Acts, were repealed, so far as they applied to London, by the Pub. Hlth. (London) Act, 1891, sec. 142, *ante*, vol. i.; and the above sec. 3 must be read as if sec. 99 of that Act were therein referred to. *Ib*.

(*d*) **Summary proceedings.**—See note to sec. 227 of the Met. Man. Act, 1855, *ante*, vol. i.

41 Vict. c. 16.

## PART I.

## GENERAL LAW RELATING TO FACTORIES AND WORKSHOPS (e).

(1) *Sanitary Provisions.*3. [*Sanitary condition of factory.*]

Notice by  
inspector to  
sanitary  
authority of  
sanitary  
defects in  
factory or  
workshop.

4. Where it appears to an inspector under this Act that any act, neglect, or default in relation to any drain, watercloset, earthcloset, privy, ashpit, water supply, nuisance, or other matter in a factory or workshop (*f*) is punishable or remediable under the law relating to public health (*g*), but not under this Act, that inspector shall give notice in writing of such act, neglect, or default to the sanitary authority in whose district the factory or workshop is situate, and it shall be the duty of the sanitary authority to make such inquiry into the subject of the notice, and take such action thereon, as to that authority may seem proper for the purpose of enforcing the law (*h*).

An inspector under this Act may, for the purposes of this section, take with him into a factory or a workshop a medical officer of health, inspector of nuisances, or other officer of the sanitary authority.

5. [*Fencing of certain machinery.*]6, 7, 8. [*Rep. by Factory and Workshop Act, 1891.*]9. [*Restrictions on cleaning machinery in motion.*]10—21. [*Employment and meal hours.*]22. [*Holidays.*]23—26. [*Education of children.*]27—30. [*Certificates of fitness for employment.*]31. [*Rep. by Factory and Workshop Act, 1895.*]32. [*Investigation of and report on accidents by surgeon.*]

## PART II.

(1) *Special Provisions for Health in Bakehouses.*33. [*Limewashing and washing of the interior of factories.*]

Limewashing,  
painting and  
washing of the  
interior of  
bakehouses.

34. Where a bakehouse (*i*) is situate in any city, town, or place . . . (*k*) all the inside walls of the rooms of such bakehouse, and all the ceilings or tops of such rooms (whether such walls, ceilings, or tops be plastered or not), and all the passages and staircases of such bakehouse, shall either be painted with oil or varnished or be limewashed, or be partly painted or varnished and partly limewashed ;

(e) **Application of Factory Acts.**—The principal duties of enforcing the Factory Acts are vested in inspectors appointed by the Home Secretary : but important powers and duties under the Acts also devolve upon the local authorities. Only such sections are set out as relate to the latter. For further powers and duties of the London sanitary authorities in relation to factories and workshops, see the Pub. Hlth. (London) Act, 1891, secs. 2, 10, 25, 26, 27, and 38, *ante*, vol. i.

(f) **Workshop.**—The above section is applied to “workshops conducted on the system of not employing any child, young person, or woman therein, and to laundries,” by the Factory and Workshop Act, 1891, sec. 2 (1), *post*.

(g) **Law relating to public health.**—See the Pub. Hlth. (London) Act, 1891, *ante*, vol. i.

(h) **Action of sanitary authority.**—It is the duty of the sanitary authority to inform the inspector of the proceedings taken in consequence of a notice from him. Factory and Workshop Act, 1895, sec. 3 (1), *post*. Where the sanitary authority does not take proceedings within one month after such notice the inspector may do so, and recover the expense from the sanitary authority. *Ib.* sec. 3 (2), and Factory and Workshop Act, 1891, sec. 2 (2), *post*.

(i) **Bakehouses.**—As respects every bakehouse which is a workshop, the sanitary authorities are required to enforce the above sections 34 and 35 by the Pub. Hlth. (London) Act, 1891, sec. 26, *ante*, vol. i. See the Factory and Workshop Act, 1883, secs. 15 & 16, *post*, for further regulations as to bakehouses.

(k) **Any city, &c.**—The omitted words limited the provisions of the above secs. 34 and 35 to bakehouses in any city, town, or place having a population of more than five thousand persons, and are repealed by the Factory and Workshop Act, 1895, sec. 27 (1), *post*, which extends those sections to every bakehouse.

where painted with oil or varnished there shall be three coats of paint or varnish and the paint or varnish shall be renewed once at least in every seven years, and shall be washed with hot water and soap once at least in every six months; where limewashed the limewashing shall be renewed once at least in every six months.

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A bakehouse in which there is any contravention of this section shall be deemed not to be kept in conformity with this Act.

35. Where a bakehouse (*l*) is situate in any city, town, or place (*m*) . . . a place on the same level with the bakehouse, and forming part of the same building, shall not be used as a sleeping place, unless it is constructed as follows; that is to say—

Provision as to sleeping places near bakehouses.

unless it is effectually separated from the bakehouse by a partition extending from the floor to the ceiling; and

unless there be an external glazed window of at least nine superficial feet in area, of which at the least four and a half superficial feet are made to open for ventilation.

Any person who lets or occupies or continues to let or knowingly suffers to be occupied any place contrary to this section shall be liable to a fine not exceeding, for the first offence, twenty shillings, and for every subsequent offence five pounds.

36. [*Power to inspector to require ventilation of factory or workshop by mechanical means.*]

37. [*Protection of workers in wet-spinning.*]

38—41. [*Special restrictions as to employment, meals, and certificates of fitness.*]

42. [*Rep. by Factory and Workshop Act, 1895.*]

43—60. [*Special exceptions relaxing general law in certain factories and workshops.*]

(4) *Special Exception for Domestic and certain other Factories and Workshops.*

61. The provisions of this Act which relate—

(1) To the cleanliness (including limewashing, painting, varnishing, and washing) or to the freedom from effluvia, or to the overcrowding, or ventilation of a factory or workshop; or

Exception of domestic factories and workshops and certain other workshops from certain provisions of the Act.

(3) To the affixing of any notice or abstract in a factory or workshop; or specifying any matter in the notice so affixed;

shall not apply—

(a) Where persons are employed at home, that is to say, to a private house, room, or place which, though used as a dwelling, is by reason of the work carried on there a factory or workshop within the meaning of this Act, and in which neither steam, water, nor other mechanical power is used, and in which the only persons employed are members of the same family dwelling there;

Nothing in this section shall exempt a bakehouse from the provisions of this Act with respect to cleanliness (including limewashing, painting, varnishing, and washing), or to freedom from effluvia.

62. [*Exception for certain descriptions of flax scutch mills.*]

63—66. [*Supplemental as to special provisions.*]

### PART III.

#### ADMINISTRATION, PENALTIES, AND LEGAL PROCEEDINGS.

67—70. [*Appointment and powers of inspectors of factories.*]

71—74. [*Certifying surgeons.*]

(*l*) Bakehouses.—See note (*i*) on page 848.

(*m*) Any city, &c.—See note (*k*) on page 848.



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(3) *Miscellaneous.*

Notice of  
factory to be  
given to  
inspector.

**75.** Every person shall, within one month after he begins to occupy a factory, serve on an inspector a written notice containing the name of the factory, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work, the nature and amount of the moving power therein, and the name of the firm under which the business of the factory is to be carried on, and in default shall be liable to a fine not exceeding five pounds (*n*).

**76.** [*Regulation of hours by public clock.*]

Registers to be  
kept in a  
factory or  
workshop.

**77.** The occupier of every factory and workshop to which this section applies shall keep in the prescribed form and with the prescribed particulars registers of the children and young persons employed in that factory or workshop, and of their employment, and of other matters under this Act (*o*).

The occupier of a factory or workshop shall send to an inspector such extracts from any register kept in pursuance of this Act as the inspector from time to time requires for the execution of his duties under this Act.

This section applies to every factory and workshop in which a child or young person under the age of sixteen years is, for the time being, prohibited under this Act from being employed without a certificate of fitness for employment.

Where by reason of the number of children and young persons employed in a factory or workshop to which this section does not for the time being apply, or otherwise, it seems expedient to a Secretary of State so to do, he may order the occupier of that factory or workshop to keep a register under this section, with power to rescind such order, and while such order is in force this section shall apply to that factory or workshop.

In the event of a contravention of this section in a factory or workshop, the occupier of the factory or workshop shall be liable to a fine not exceeding forty shillings.

Affixing in  
factory or  
workshop of  
abstract of Act  
and notices.

**78** (*p*). There shall be affixed at the entrance of a factory and a workshop, and in such other parts thereof as an inspector for the time being directs, and be constantly kept so affixed in the prescribed form and in such position as to be easily read by the persons employed in the factory or workshop—

- (1) The prescribed abstract of this Act; and
- (2) A notice of the name and address of the prescribed inspector; and
- (3) A notice of the name and address of the certifying surgeon for the district; and
- (4) A notice of the clock (if any) by which the period of employment and times for meals in the factory or workshop are regulated; and
- (5) Every notice and document required by this Act to be affixed in the factory or workshop.

In the event of a contravention of this section in a factory or workshop, the occupier of the factory or workshop shall be liable to a fine not exceeding forty shillings.

Printing or  
writing and  
service of  
notices and  
documents, &c.

**79.** Any notice, order, requisition, summons, and document under this Act may be in writing or print, or partly in writing and partly in print.

Any notice, order, requisition, summons, and document required or authorised to be served or sent for the purposes of this Act may be served and sent by delivering the same to or at the residence of the person on or to whom it is to be served or sent, or, where that person is the occupier of a factory or workshop, by delivering the same or a true copy thereof to his agent or to some person in

(*n*) **Notice of factory.**—This section is applied to workshops by the Factory and Workshop Act, 1891, sec. 26, *post*, which also requires the inspector, on receiving notice of the occupation of a workshop, to forward such notice to the sanitary authority. See also the Factory and Workshop Act, 1895, sec. 41, *post*.

(*o*) **Other matters.**—Failure to enter in the register the prescribed particulars as to limewashing (see sec. 34, *ante*) is *prima facie* evidence of failure to observe the requirements of the Factory Acts with respect to limewashing. Factory and Workshop Act, 1895, sec. 43, *post*.

(*p*) **Notices to be affixed.**—Section 78 is to be read as if it included among the notices required to be affixed a notice specifying the number of persons who may be employed in each room of the factory or workshop. Factory and Workshop Act, 1895, sec. 1 (3), *post*.

such factory or workshop; it may also be served or sent by post by a prepaid letter, and if served or sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that it was properly addressed and put into the post; and where it is required to be served on or sent to the occupier of a factory or workshop, it shall be deemed to be properly addressed to the occupier of such factory or workshop at the factory or workshop, with the addition of the proper postal address, but without naming the person who is the occupier.

41 Vict. c. 16.

80. Any Act for the time being in force relating to weights and measures shall extend to weights, measures, scales, balances, steelyards, and weighing machines used in a factory or workshop in checking or ascertaining the wages of any person employed therein, in like manner as if they were used in the sale of goods, and as if such factory or workshop were a place where goods are kept for sale, and such Act shall apply accordingly, and every inspector of, or other person authorised to inspect or examine, weights and measures, shall inspect, stamp, mark, search for, and examine the said weights and measures, scales, balances, steelyards, and weighing machines accordingly, and for that purpose shall have the same powers and duties as he has in relation to weights, measures, scales, balances, steelyards, and weighing machines used in the sale of goods (*q*).

Inspection of weights and measures used in factories and workshops.

(4) *Fines.*

81. If a factory or workshop is not kept in conformity with this Act, the occupier thereof shall be liable to a fine not exceeding ten pounds (*r*).

The court of summary jurisdiction, in addition to or instead of inflicting such fine may order certain means to be adopted by the occupier, within the time named in the order, for the purpose of bringing his factory or workshop into conformity with this Act; the court may, upon application, enlarge the time so named, but if, after the expiration of the time as originally named or enlarged by subsequent order, the order is not complied with, the occupier shall be liable to a fine not exceeding one pound for every day that such non-compliance continues.

Fine for not keeping factory or workshop in conformity with Act.

82. [*Penal compensation to person injured by want of fence to machinery, &c.*]

83. [*Fine for employing children, &c., contrary to Act.*]

84. [*Fine on parent for allowing child, &c., to be employed contrary to Act.*]

85. [*Forgery of certificates, false entries, and declarations.*]

86. Where an offence for which the occupier of a factory or workshop is liable under this Act to a fine, has in fact been committed by some agent, servant, workman, or other person, such agent, servant, workman, or other person shall be liable to the same fine as if he were the occupier.

Fine on person committing offence for which occupier is liable.

87. Where the occupier of a factory or workshop is charged with an offence against this Act, he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier of the factory or workshop proves to the satisfaction of the court that he has used due diligence to enforce the execution of the Act, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence (*s*), and the occupier shall be exempt from any fine.

Power of occupier to exempt himself from fine on conviction of the actual offender.

When it is made to appear to the satisfaction of an inspector at the time of discovering the offence, that the occupier of the factory or workshop had used all due diligence to enforce the execution of this Act, and also by what person such

(*q*) **Weights and Measures Acts.**—See *post*, tit. "*Weights and Measures.*"

(*r*) **Fine.**—In case of a second or subsequent conviction for the same offence within two years the fine shall be not less than one pound for each offence. Factory and Workshop Act, 1891, sec. 28, *post*

(*s*) **Other person.**—On conviction, such other person is liable, at the discretion of the court, to pay any costs incidental to the proceeding. Factory and Workshop Act, 1895, sec. 50, *post*.

41 Vict. c. 16. offence had been committed, and also that it had been committed without the knowledge, consent, or connivance of the occupier and in contravention of his orders, then the inspector shall proceed against the person whom he believes to be the actual offender in the first instance (*t*), without first proceeding against the occupier of the factory or workshop.

Restraint on cumulative fines.

88. A person shall not be liable in respect of a repetition of the same kind of offence from day to day to any larger amount of fines than the highest fine fixed by this Act for the offence, except—

- (a) where the repetition of the offence occurs after an information has been laid for the previous offence; or
- (b) where the offence is one of employing two or more children, young persons, or women contrary to the provisions of this Act.

(5) *Legal Proceedings.*

Prosecution of offences and recovery and application of fines.

89. All offences under this Act shall be prosecuted, and all fines under this Act shall be recovered, on summary conviction before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

A summary order may be made for the purposes of this Act by a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

All fines imposed in pursuance of this Act shall, save as otherwise expressly provided by this Act, be paid into the Exchequer.

The court of summary jurisdiction, when hearing and determining a case arising under this Act, shall be constituted either of two or more justices of the peace sitting at some court or public place at which justices are for the time being accustomed to assemble for the purpose of holding petty sessions or of some magistrate or officer sitting alone or with others at some court or other place appointed for the public administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.

Where a proceeding is taken before a court of summary jurisdiction with respect to an offence against this Act alleged to be committed in or with reference to a factory or workshop, the occupier of that factory or workshop, and the father, son, or brother of such occupier, shall not be qualified to act as a member of such court.

Appeal to quarter sessions.

90. If any person feels aggrieved by a conviction or order made by a court of summary jurisdiction on determining an information or complaint under this Act, he may appeal therefrom; subject, in England, to the conditions and regulations following:

- (1) The appeal shall be made to the next practicable court of general or quarter sessions (*u*) . . .

Limitation of time and general provisions as to summary proceedings.

91. The following provisions shall have effect with respect to summary proceedings for offences and fines under this Act:

- (1) . . . (*x*)
- (2) (3) [*Rep. by Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 4.*]
- (4) It shall be sufficient to allege that a factory or workshop is a factory or workshop within the meaning of this Act, without more:
- (5) It shall be sufficient to state the name of the ostensible occupier of the factory or workshop or the title of the firm by which the occupier employing persons in the factory or workshop is usually known:
- (6) . . . A conviction or order made by a court of summary jurisdiction against which a person is authorised by this Act to appeal shall not be removed by certiorari or otherwise, either at the instance of the Crown or of any private person, into a superior court, except for the purpose of the hearing and determination of a special case.

(*t*) **Other person.**—See note (*s*) on page 851.

(*u*) **Appeal to quarter sessions.**—The remainder of this section is repealed by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 4. For the time and manner of appealing, see note to sec. 227 of the Met. Man. Act, 1855, *ante*, vol. i.

(*x*) **Summary proceedings.**—Sub-section (1) is repealed by sec. 39 of the Factory and Workshop Act, 1891, and the limitation of time for summary proceedings is fixed by sec. 29 of that Act, *post*.



**92.** If a person is found in a factory (*y*), except at meal times, or while all the machinery of the factory is stopped, or for the sole purpose of bringing food to the persons employed in the factory between the hours of four and five o'clock in the afternoon, such person shall, until the contrary is proved, be deemed for the purposes of this Act to have been then employed in the factory :

41 Vict. c. 16.

Evidence in  
summary  
proceedings.

Provided that yards, playgrounds, and places open to the public view, school rooms, waiting rooms, and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on, shall not be taken to be any part of the factory within the meaning of this enactment ; and this enactment shall not apply to a factory or workshop to which the provisions of this Act with respect to the affixing of notices do not apply.

Where a child or young person is, in the opinion of the court, apparently of the age alleged by the informant, it shall lie on the defendant to prove that the child or young person is not of that age.

A declaration in writing by a certifying surgeon for the district that he has personally examined a person employed in a factory or workshop in that district, and believes him to be under the age set forth in the declaration, shall be admissible in evidence of the age of that person.

A copy of a conviction for an offence against this Act purporting to be certified under the hand of the clerk of the peace having the custody of such conviction to be a true copy shall be receivable as evidence, and every such clerk of the peace shall, upon the written request of an inspector and payment of a fee of one shilling, deliver to him a copy of the conviction so certified.

#### PART IV.

##### (1) *Definitions.*

**93.** The expression "textile factory" in this Act means—

any premises wherein or within the close or curtilage of which steam, water, or other mechanical power is used to move or work any machinery employed in preparing, manufacturing, or finishing, or in any process incident to the manufacture of, cotton, wool, hair, silk, flax, hemp, jute, tow, china-grass, cocoanut fibre, or other like material, either separately or mixed together, or mixed with any other material, or any fabric made thereof ;

Factories and  
workshops to  
which Act  
applies.

Provided that print works, bleaching and dyeing works, lace warehouses, paper mills, flax scutch mills, rope works, and hat works shall not be deemed to be textile factories.

The expression "non-textile factory" in this Act means—

(1) any works, warehouses, furnaces, mills, foundries, or places named in part one of the fourth schedule to this Act.

(2) also any premises or places named in part two of the said schedule wherein or within the close or curtilage or precincts of which, steam, water, or other mechanical power is used in aid of the manufacturing process carried on there.

(3) also any premises wherein or within the close or curtilage or precincts of which, any manual labour is exercised by way of trade or for purposes of gain in or incidental to the following purposes, or any of them ; that is to say,

(a) in or incidental to the making of any article or of part of any article,

or

(b) in or incidental to the altering, repairing, ornamenting, or finishing of any article, or

(c) in or incidental to the adapting for sale of any article, and wherein, or within the close or curtilage or precincts of which, steam, water, or other mechanical power is used in aid of the manufacturing process carried on there.

The expression "factory" in this Act means textile factory and non-textile factory, or either of such descriptions of factories.

The expression "workshop" in this Act means—

(1) any premises or places named in part two of the fourth schedule to this Act, which are not a factory within the meaning of this Act,

(*y*) **Factory.**—This section is applied to "a workshop in the like manner as it applies to a factory" by the Factory and Workshop Act, 1891, sec. 30, *post*.

41 Vict. c. 16.

(2) also any premises, room, or place not being a factory within the meaning of this Act, in which premises, room, or place, or within the close or curtilage or precincts of which premises, any manual labour is exercised by way of trade or for purposes of gain in or incidental to the following purposes or any of them; that is to say,

(a) in or incidental to the making of any article or of part of any article, or

(b) in or incidental to the altering, repairing, ornamenting or finishing of any article, or

(c) in or incidental to the adapting for sale of any article, and to which or over which premises, room, or place the employer of the persons working therein has the right of access or control.

A part of a factory or workshop may for the purposes of this Act be taken to be a separate factory or workshop; and a place solely used as a dwelling shall not be deemed to form part of the factory or workshop for the purposes of this Act (2).

Where a place situate within the close, curtilage, or precincts forming a factory or workshop is solely used for some purpose other than the manufacturing process or handicraft carried on in the factory or workshop, such place shall not be deemed to form part of that factory or workshop for the purposes of this Act, but shall, if otherwise it would be a factory or workshop, be deemed to be a separate factory or workshop, and be regulated accordingly.

Any premises or place shall not be excluded from the definition of a factory or workshop, by reason only that such premises or place are or is in the open air.

This Act shall not apply to such workshops other than bakehouses as are conducted on the system of not employing any child, young person, or woman therein, but save as aforesaid applies to all factories and workshops as before defined, inclusive of factories and workshops belonging to the Crown; provided that in case of any public emergency a Secretary of State may exempt a factory or workshop belonging to the Crown from this Act to the extent and during the period named by him.

The exercise by any child or young person in any recognised efficient school during a portion of the school hours of any manual labour for the purpose of instructing such child or young person in any art or handicraft shall not be deemed to be an exercise of manual labour for the purpose of gain within the meaning of this Act.

Definition of  
employment  
and working  
for hire.

94. A child, young person, or woman who works in a factory or workshop whether for wages or not, either in a manufacturing process or handicraft, or in cleaning any part of the factory or workshop used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to or connected with the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process or handicraft therein, shall, save as is otherwise provided by this Act, be deemed to be employed therein within the meaning of this Act.

95. [Definition of "certified efficient school."]

General  
definitions.  
"Child."  
"Young  
person."  
"Woman."  
"Parent."

96. In this Act, unless the context otherwise requires—

The expression "child" means a person under the age of fourteen years:

The expression "young person" means a person of the age of fourteen years and under the age of eighteen years:

The expression "woman" means a woman of eighteen years of age and upwards:

The expression "parent" means a parent or guardian of, or person having the legal custody of, or the control over, or having direct benefit from the wages, of a child or young person:

\* \* \* \* \*

"Sanitary  
authority."  
38 & 39 Vict.  
c. 55.

The expression "sanitary authority" means an urban or rural sanitary authority within the meaning of the Public Health Act, 1875, and any

(2) And a place solely used, &c.—For the words in italics substitute "a room solely used for the purpose of sleeping therein shall not be deemed to form part of the factory or workshop for the purposes of this Act." Factory and Workshop Act, 1891, sec. 31, *post*.

|                                                                                                                          |                 |
|--------------------------------------------------------------------------------------------------------------------------|-----------------|
| commissions, board, or vestry in the metropolis having the like powers as such urban sanitary authority (a):             | 41 Vict. c. 16. |
| The expression "person" includes a body of persons corporate or unincorporate:                                           | "Person."       |
| The expression "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night: | "Week."         |
| The expression "night" means the period between nine o'clock in the evening and six o'clock in the succeeding morning:   | "Night."        |
| The expression "prescribed" means prescribed for the time being by a Secretary of State:                                 | "Prescribed."   |

\*       \*       \*       \*       \*       \*       \*

The factories and workshops named in the fourth schedule to this Act are in this Act referred to by the names therein assigned to them.

*Special exemption of certain Trades.*

**97.** The exercise in a private house or private room by the family dwelling therein, or by any of them, of manual labour by way of trade or for purposes of gain in or incidental to any of the handicrafts specified in the fifth schedule to this Act, shall not of itself constitute such house or room a workshop within the meaning of this Act. Exemption of handicrafts in fifth schedule in private houses.

When it is proved to the satisfaction of a Secretary of State that by reason of the light character of the handicraft carried on in any private house or private room by the family dwelling therein, or by any of them, it is expedient to extend this section to that handicraft, he may by order extend the same.

The order shall be made in manner provided by part two of this Act, and that part shall apply so far as circumstances admit as if the order were an order extending an exception.

**98.** The exercise in a private house or private room by the family dwelling therein, or by any of them, of manual labour for the purposes of gain in or incidental to some of the purposes in this Act in that behalf mentioned, shall not of itself constitute such house or room a workshop where the labour is exercised at irregular intervals, and does not furnish the whole or principal means of living to such family. Exemption of certain home work.

**99—102.** [*Savings.*]

**103—106.** [*Application of Act to Scotland and Ireland.*]

**107.** [*Repeal of Acts.*]

FIRST SCHEDULE.

[*Factories and workshops in which employment of young persons and children restricted.*]

SECOND SCHEDULE.

[*Places forbidden for meals.*]

THIRD SCHEDULE.

[*Meal hours, overtime, nightwork, &c.*]

FOURTH SCHEDULE.

LIST OF FACTORIES AND WORKSHOPS.

PART I.

Sections 93, 96.

*Non-Textile Factories.*

- (1) "Print works," that is to say, any premises in which any persons are employed to print figures, patterns, or designs upon any cotton, linen, woollen, worsted, or silken yarn, or upon any woven or felted fabric not being paper;
- (2) "Bleaching and dyeing works," that is to say, any premises in which the processes of bleaching, beetling, dyeing, calendering, finishing, hooking, lapping, "Print works."  
"Bleaching and dyeing works."

(a) **Sanitary authority.** For the sanitary authorities in the Metropolis, see the Pub. Hlth. (London) Act, 1891, sec. 99, *ante*, vol. i.



- 41 Vict. c. 16. and making up and packing any yarn or cloth of any material, or the dressing or finishing of lace, or any one or more of such processes, or any process incidental thereto, are or is carried on;
- "Earthenware works." (3) "Earthenware works," that is to say, any place in which persons work for hire in making or assisting in making, finishing, or assisting in finishing, earthenware (b) of any description, except bricks and tiles not being ornamental tiles;
- "Lucifer-match works." (4) "Lucifer match works," that is to say, any place in which persons work for hire in making lucifer matches, or in mixing the chemical materials for making them, or in any process incidental to making lucifer matches, except the cutting of the wood;
- "Percussion-cap works." (5) "Percussion-cap works," that is to say, any place in which persons work for hire in making percussion caps, or in mixing or storing the chemical materials for making them, or in any process incidental to making percussion caps;
- "Cartridge works." (6) "Cartridge works," that is to say, any place in which persons work for hire in making cartridges, or in any process incidental to making cartridges, except the manufacture of the paper or other material that is used in making the cases of the cartridges;
- "Paper-staining works." (7) "Paper-staining works," that is to say, any place in which persons work for hire in printing a pattern in colours upon sheets of paper, either by blocks applied by hand, or by rollers worked by steam, water, or other mechanical power;
- "Fustian-cutting works." (8) "Fustian-cutting works," that is to say, any place in which persons work for hire in fustian cutting;
- "Blast furnaces." (9) "Blast furnaces," that is to say, any blast furnace or other furnace or premises in or on which the process of smelting or otherwise obtaining any metal from the ores is carried on;
- "Copper mills." (10) "Copper mills";
- "Iron mills." (11) "Iron mills," that is to say, any mill, forge, or other premises in or on which any process is carried on for converting iron into malleable iron, steel, or tin plate, or for otherwise making or converting steel;
- "Foundries." (12) "Foundries," that is to say, iron foundries, copper foundries, brass foundries, and other premises or places in which the process of founding or casting any metal is carried on; except any premises or places in which such process is carried on by not more than five persons and as subsidiary to the repair or completion of some other work;
- "Metal and india-rubber works." (13) "Metal and india-rubber works," that is to say, any premises in which steam, water, or other mechanical power is used for moving machinery employed in the manufacture of machinery, or in the manufacture of any article of metal not being machinery, or in the manufacture of india-rubber or gutta-percha, or of articles made wholly or partially of india-rubber or gutta-percha;
- "Paper mills." (14) "Paper mills," that is to say, any premises in which the manufacture of paper is carried on;
- "Glass works." (15) "Glass works," that is to say, any premises in which the manufacture of glass is carried on;
- "Tobacco factory." (16) "Tobacco, factories," that is to say, any premises in which the manufacture of tobacco is carried on;
- "Letter-press printing works." (17) "Letter-press printing works," that is to say, any premises in which the process of letter-press printing is carried on;
- "Book-binding works." (18) "Bookbinding works," that is to say, any premises in which the process of bookbinding is carried on;
- "Flax scutch mills." (19) Flax scutch mills.

## PART II.

*Non-Textile Factories and Workshops.*

- Sections 93, 96.
- "Hat works." (20) "Hat works," that is to say, any premises in which the manufacture of hats or any process incidental to their manufacture is carried on;
- "Rope works." (21) "Rope works," that is to say, any premises being a ropery ropewalk, or rope work, in which is carried on the laying or twisting or other process of preparing or finishing the lines, twines, cords, or ropes, and in which machinery

(b) **Earthenware.** Add the words "or china." Factory and Workshop Act, 1891, sec. 38, *post*.

moved by steam, water, or other mechanical power is not used for drawing or spinning the fibres of flax, hemp, jute, or tow, and which has no internal communication with any buildings or premises joining or forming part of a textile factory, except such communication as is necessary for the transmission of power; 41 Vict. c. 16.

(22) "Bakehouses," that is to say, any places in which are baked bread, biscuits, or confectionery from the baking or selling of which a profit is derived; "Bakehouses."

(23) "Lace warehouses," that is to say, any premises, room, or place not included in bleaching and dyeing works as hereinbefore defined, in which persons are employed upon any manufacturing process or handicraft in relation to lace, subsequent to the making of lace upon a lace machine moved by steam, water, or other mechanical power; "Lace warehouses."

(24) "Shipbuilding yards," that is to say, any premises in which any ships, boats, or vessels used in navigation are made, finished, or repaired; "Ship-building yards."

(25) "Quarries," that is to say, any place not being a mine, in which persons work in getting slate, stone, coprolites, or other minerals; "Quarries."

(26) "Pit-banks," that is to say, any place above ground adjacent to a shaft of a mine, in which place the employment of women is not regulated by the Coal Mines Regulation Act, 1872, or the Metalliferous Mines Regulation Act, 1872, whether such place does or does not form part of the mine within the meaning of those Acts, "Pit banks."  
35 & 36 Vict. c. 76.  
35 & 36 Vict. c. 77.

## FIFTH SCHEDULE.

Section 97.

## SPECIAL EXEMPTIONS.

Straw plaiting.

Pillow-lace making.

Glove making.

## SIXTH SCHEDULE.

[*Acts repealed.*]

## FACTORY AND WORKSHOP ACT, 1883.

46 & 47 Vict. c. 53. An Act to amend the Law relating to certain Factories and Workshops. [25th August, 1883]

1. This Act may be cited as the Factory and Workshop Act, 1883.

Short Title.

2—6. [*White Lead Factories.*]

7—12. [*Rep. by Factory and Workshop Act, 1891.*]

13. [*Explanation of sec. 53 of Factory and Workshop Act, 1878.*]

14. [*Amendment as to period of employment of children in certain cases.*]

*Bakehouses.*

15. (c) It shall not be lawful to let or suffer to be occupied as a bakehouse, or to occupy as a bakehouse, any room or place (d) . . . unless the following regulations are complied with: Regulations for new bakehouses.

(i) No watercloset, earthcloset, privy, or ashpit shall be within or communicate directly with the bakehouse;

(ii) Any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern for supplying water to a watercloset;

(c) **Bakehouses.**—As respects every bakehouse which is a workshop, the sanitary authorities in London are required to enforce the above secs. 15 and 16, by the Pub. Hlth. (London) Act, 1891, sec. 26 (1), *ante*, vol. i. No place underground is to be used as a bakehouse unless it was so used previous to the 1st January, 1896. Factory and Workshop Act, 1895, sec. 27 (3), *post*. And see the Factory and Workshop Act, 1878, secs. 34 and 35, *ante*, for further regulations as to bakehouses.

(d) **Section 15.**—The omitted words are repealed by the Factory and Workshop Act, 1895, sec. 15, *post*.

46 & 47 Vict.  
c. 53.

(iii) No drain or pipe for carrying off fæcal or sewage matter shall have an opening within the bakehouse.

Any person who lets or suffers to be occupied or who occupies any room or place as a bakehouse in contravention of this section shall be liable, on summary conviction, to a fine not exceeding forty shillings, and to a further fine not exceeding five shillings for every day during which any room or place is so occupied after a conviction under this section.

Penalty for  
bakehouse  
being unfit on  
sanitary  
grounds for use  
as a bakehouse.

16. (e) Where a court of summary jurisdiction is satisfied on the prosecution of an inspector or a local authority that any room or place used as a bakehouse (whether the same was or was not so used before the passing of this Act) is in such a state as to be on sanitary grounds unfit for use or occupation as a bakehouse, the occupier of the bakehouse shall be liable, on summary conviction, to a fine not exceeding forty shillings, and on a second or any subsequent conviction, not exceeding five pounds.

The court of summary jurisdiction, in addition to or instead of inflicting such fine, may order means to be adopted by the occupier, within the time named in the order, for the purpose of removing the ground of complaint. The court may, upon application, enlarge the time so named, but if, after the expiration of the time as originally named or enlarged by subsequent order, the order is not complied with, the occupier shall be liable to a fine not exceeding one pound for every day that such non-compliance continues.

17. [*Rep. as to local authorities in London by Pub. Hlth. (London) Act, 1891, sec. 142, ante, vol. i.*]

Construction  
of Act and  
definitions.  
41 & 42 Vict.  
c. 16.

18. This Act shall be construed as one with the Factory and Workshop Act, 1878; and in this Act, unless the context otherwise requires—

\* \* \* \* \*

The expression "retail bakehouse" means any bakehouse or place, the bread, biscuits, or confectionery baked in which are not sold wholesale but by retail in some shop or place occupied together with such bakehouse (f):

The expression "local authority" means, as respects the City of London and the liberties thereof, the Commissioners of Sewers; as respects the parishes and districts mentioned in the Schedules A. and B. annexed to the Metropolitan Management Act, 1855, and any parish to which the said Act may be extended by Order in Council in manner in the said Act provided, the vestries and district boards elected under the said Act. . . .

18 & 19 Vict.  
c. 120.

19—20. [*Application of Act to Scotland and Ireland.*]

#### SCHEDULE.

[*Condition of obtaining certificate for white lead factory.*]

### FACTORY AND WORKSHOP ACT, 1891.

54 & 55 Vict. c. 75. An Act to amend the Law relating to Factories and Workshops. [5th August, 1891]

[*Preamble recites the Factory and Workshop Act, 1878.*]

#### Sanitary Provisions.

Powers of  
Secretary of  
State as to  
sanitary  
provisions in  
workshops

1.—(1) If the Secretary of State is satisfied that the provisions of the law relating to public health (g) as to effluvia arising from any drain, privy, or other nuisance, or with respect to cleanliness, ventilation, overcrowding, or lime-washing are not observed in any workshops or class of workshops (including

(e) **Bakehouses.**—See note (e) on p. 857.

(f) **Retail bakehouse.**—This expression does not include any place which is a factory within the meaning of the principal Act, Factory and Workshop Act, 1891, sec. 36.

(g) **Law relating to public health.** See the Pub. Hlth. (London) Act, 1891, secs. 2 (1) (g) 25, and 26, *ante*, vol. i.



workshops conducted on the system of not employing any child, young person, or woman therein) or laundries, he may, if he thinks fit, by order, authorise and direct an inspector or inspectors under the principal Act to take, during such period as may be mentioned in the order, such steps as appear necessary or proper for enforcing the said provisions.

54 & 55 Vict.  
c. 75.

(2) An inspector authorised in pursuance of this section shall, for the purpose of his duties, have the same powers with respect to workshops and laundries to which this section applies, as he has under the principal Act as amended by this Act with respect to factories, and may for the same purpose take the like proceedings for punishing or remedying any default in compliance with the said provisions of the law relating to public health as might be taken by the sanitary authority of the district in which the workshops or laundries are situate, and shall be entitled to recover from that sanitary authority all such expenses in and about any proceedings in respect of such workshops or laundries as he may incur and are not recovered from any other person, and have not been incurred in any unsuccessful proceedings.

2.—(1) Section four of the principal Act shall apply to workshops conducted on the system of not employing any child, young person, or woman therein, and to laundries.

Powers of  
factory in-  
spectors after  
notice to sani-  
tary authority.

(2) Where notice of an act, neglect, or default is given by an inspector under the said section four, as amended by this Act, to a sanitary authority, and proceedings are not taken *within a reasonable time* (h) for punishing or remedying the act, neglect, or default, the inspector may take the like proceedings for punishing or remedying the same as the sanitary authority might have taken, and shall be entitled to recover from the sanitary authority all such expenses in and about the proceedings as the inspector incurs and are not recovered from any other person, and have not been incurred in any unsuccessful proceedings.

3.—(1) Sections three and thirty-three of the Factory and Workshop Act, 1878 (which relate to cleanliness, ventilation, and overcrowding in, and lime-washing of, factories and workshops), shall cease to apply to workshops.

Enforcement  
by sanitary  
authority of  
sanitary pro-  
visions as to  
workshops.

(2) For the purpose of their duties with respect to workshops (not being workshops to which the Public Health (London) Act, 1891, applies (i)), a sanitary authority and their officers shall, without prejudice to their other powers, have all such powers of entry (k), inspection, taking legal proceedings or otherwise, as an inspector under the principal Act.

41 & 42 Vict.  
c. 16.  
54 & 55 Vict.  
c. 76.

(3) If any child, young person, or woman is employed in a workshop, and the medical officer of the sanitary authority becomes aware thereof, he shall forthwith give written notice thereof to the factory inspector of the district (l).

4.—[*Cleanliness and limewashing of workshops.*] \* \*

(4) This section shall not apply to any workshop or workplace to which the Public Health Act (London) Act, 1891, applies (i).

54 & 55 Vict.  
c. 76.

5. [*Amendment of sec. 3 of Factory and Workshop Act, 1878.*]

#### Safety.

6. [*Amendment of 41 & 42 Vict. c. 16, s. 5, as to fencing of machinery.*]

7.—(1) Every factory (m) of which the construction is commenced after the first day of January one thousand eight hundred and ninety-two, and in which

Provision  
against fire.

(h) **Within a reasonable time.**—For these words substitute “within one month after the time when the difference arises.” Factory and Workshop Act, 1895, sec. 3 (2), *post*.

(i) **Pub. Hlth. London Act, 1891.**—See secs. 2 (1) (g), 25 and 26 *ante*, vol. i. Sec. 3, sub-sec. (2), and sec. 4 of the present Act, do not, therefore, apply to London.

(k) **Powers of entry.**—Ample powers of entry are given to the London sanitary authorities by the Pub. Hlth. (London) Act, 1891, secs. 10, 115, and 116, *ante*, vol. i.

(l) **Notice to factory inspector.**—Sec. 27 of the Pub. Hlth. (London) Act, 1891, *ante*, vol. i., contains identically the same provision.

(m) **Every factory.** The above sub-sec. (1) applies now also to all workshops commenced to be constructed after Dec. 31st, 1895, in which more than forty persons are employed; and the above sub-sec. (2) applies now also to all workshops to which the foregoing provision does not apply. Factory and Workshop Act, 1895, sec. 10 (4), *post*.

54 & 55 Vict.  
c. 75.

more than forty persons are employed, shall be furnished with a certificate from the sanitary authority of the district in which the factory is situate that the factory is provided on the storeys above the ground floor with such means of escape in case of fire for the persons employed therein as can reasonably be required under the circumstances of each case, and a factory not so furnished shall be deemed not to be kept in conformity with the principal Act, and it shall be the duty of the sanitary authority (*n*) to examine every such factory, and on being satisfied that the factory is so provided to give such a certificate as aforesaid.

38 & 39 Vict.  
c. 79.

(2) With respect to all factories (*o*) to which the foregoing provisions of this section do not apply, and in which more than forty persons are employed, it shall be the duty of the sanitary authority of every district, as soon as may be after the passing of this Act, and afterwards from time to time, to ascertain whether all such factories within their district are provided with such means of escape as aforesaid, and, in the case of any factory which is not so provided, to serve on the person being within the meaning of the Public Health Act, 1875, the owner of the factory a notice in writing specifying the measures necessary for providing such means of escape as aforesaid, and requiring him to carry out the same before a specified date, and thereupon such owner shall, notwithstanding any agreement with the occupier, have power to take such steps as are necessary for complying with the requirements, and, unless such requirements are so complied with, such owner shall be liable to a fine not exceeding one pound for every day that such non-compliance continues. In case of a difference of opinion between the owner of the factory and the sanitary authority, the difference shall, on the application of either party, be referred to arbitration (*p*), and thereupon the provisions of the first schedule to this Act shall have effect, except that the parties to the arbitration shall be the sanitary authority on the one hand and the owner on the other, and the award on the arbitration shall be binding on the parties thereto. If the owner alleges that the occupier of the factory ought to bear or contribute to the expenses of complying with the requirement, he may apply to the county court having jurisdiction where the factory is situate, and thereupon the county court, after hearing the occupier, may make such order as appears to the court just and equitable under all the circumstances of the case.

(3) [*Expenses of urban and rural sanitary authorities.*]

18 & 19 Vict.  
c. 122.

(4) In the application of this section to the administrative county of London, the London County Council shall take the place of the sanitary authority, and their expenses in the execution of this section shall be defrayed as part of their expense in the management of the Metropolitan Building Act, 1855, and the Acts amending the same (*q*).

8—12. [*Special rules and requirements as to dangerous and unhealthy incidents of employment.*]

13—15. [*Period of employment.*]

16. [*Holidays.*]

17—21. [*Conditions of employment.*]

22. [*Notice of accidents.*]

23. [*Inspectors in Wales and Monmouthshire.*]

24. [*Rep. by Factory and Workshop Act, 1895.*]

25. [*Powers of entry of inspector.*]

Notice of  
opening  
workshop.

26.—(1) Section seventy-five of the principal Act (which requires notice to be given of the occupation of a factory) shall apply to a workshop (including any

(*n*) **Sanitary Authority.**—See sub-sec. (4).

(*o*) **Every factory.**—See note (*m*) on page 859.

(*p*) **Arbitration.**—An application to refer to arbitration must be made within one calendar month after the time when the difference arises. Factory and Workshop Act, 1895, sec. 11 (1), *post*. Where such a difference is referred to arbitration, the notice of the county council shall be discharged, amended, or confirmed, in accordance with the award in the arbitration, *Ib.* sec. 11 (2).

(*q*) **Met. Building Act, 1855.**—Repealed and replaced by the London Building Act, 1894, *ante*, vol. i.; and the present section must be read as if that Act were herein referred to. *Ib.* sec. 218.

workshop conducted on the system of not employing any child, young person, or woman therein) in like manner as it applies to a factory. 54 & 55 Vict. c. 75.

(2) Where an inspector receives notice in pursuance of this section with respect to a workshop, he shall forthwith forward the notice to the sanitary authority of the district in which the workshop is situate.

27.—(1) The occupier of every factory and workshop (*r*) (including any workshop conducted on the system of not employing any child, young person, or woman therein) and every contractor employed by any such occupier in the business of the factory or workshop shall, if so required by the Secretary of State by an order made in accordance with section sixty-five of the principal Act, and subject to any exceptions mentioned in the order, keep in the prescribed form and with the prescribed particulars lists showing the names of all persons directly employed by him, either as workman or as contractor, in the business of the factory or workshop, outside the factory or workshop, and the places where they are employed (*s*), and every such list shall be open to inspection by any inspector under the principal Act or by any officer of a sanitary authority.

Lists of outworkers.

(2) In the event of a contravention of this section by the occupier of a factory or workshop, or by a contractor, the occupier or contractor shall be liable to a fine not exceeding forty shillings.

28. The fine imposed on a conviction under sections sixty-eight, eighty-one, eighty-two, or eighty-three of the principal Act, for any offence in relation to a factory, shall, in case of a second or subsequent conviction for the same offence within two years from the last conviction for that offence, be not less than one pound for each offence.

Minimum penalties in certain cases.

29. In summary proceedings for offences and fines under the principal Act as amended by any subsequent Act, an information may be laid within three months after (*t*) the date at which the offence comes to the knowledge of a factory inspector (*u*), or in case of an inquest being held in relation to the offence, then within two months after the conclusion of the inquest, so, however, that it shall not be laid after the expiration of six months from the commission of the offence.

Limitation of time for summary proceedings.

30. Section ninety-two of the principal Act shall apply to a workshop in like manner as it applies to a factory.

Amendment of 41 & 42 Vict. c. 16, s. 92. Amendment of 41 & 42 Vict. c. 16, s. 93.

31. In section ninety-three of the principal Act for the words "a place solely used as a dwelling shall not be deemed to form part of the factory or workshop for the purposes of this Act," shall be substituted the words "a room solely used for the purpose of sleeping therein shall not be deemed to form part of the factory or workshop for the purposes of this Act."

32. Nothing in the principal Act as amended by this Act shall apply to the process of cleaning and preparing fruit so far as is necessary to prevent the spoiling of the fruit on its arrival at a factory or workshop during the months of June, July, August, and September.

Saving for persons employed in process of cleaning fruit.

33. [*Application to Scotland.*]

34—35. [*Amendment of Factory and Workshop Act, 1878, secs. 106 and 104.*]

(*r*) **Every factory or workshop.**—By the Factory and Workshop Act, 1895, sec. 42 (2), *post*, the above section 27 is applied to "any place from which any work of making wearing apparel for sale is given out, and to the occupier of that place, and to every contractor employed by any such occupier in connexion with the said work, as if that place were a workshop."

(*s*) **Lists of outworkers.**—An order of the Secretary of State dated October 31st, 1892 (*Lond. Gaz.*, Nov. 4th, 1892, p. 6177), requires lists of outworkers to be kept in the form therein prescribed, in the following businesses, viz.: The manufacture of articles of wearing apparel; cabinet and furniture making and upholstering work; the manufacture of electroplate; the manufacture of files.

(*t*) **Within three months after,** i.e., calendar months [Interpretation Act, 1889 (52 & 53 Vict. c. 63)], exclusive of the day on which the offence comes to the knowledge of the inspector, but inclusive of the day of laying the information. *Robinson v. Waddington* and *Radcliffe v. Bartholomew*, *ante*, p. 707.

(*u*) **A factory inspector.**—Now "the factory inspector for the district within which the offence is charged to have been committed." Factory and Workshop Act, 1895, sec. 44 (2), *post*.



54 & 55 Vict.  
c. 75.

Amendment of  
46 & 47 Vict.  
c. 53, s. 18.

Amendment of  
41 & 42 Vict.  
c. 16, sched. 4.

Short title and  
construction.  
41 & 42 Vict.  
c. 16.  
46 & 47 Vict.  
c. 53.  
52 & 53 Vict.  
c. 62.

Sections 7, 8.

36. The expression "retail bakehouse" in the Factory and Workshop Act, 1883, shall not include any place which is a factory within the meaning of the principal Act.

37.—(1) [*Definition of "machinery" and "process."*]

(2) In this Act the expression "domestic workshop" means a workshop to which section sixteen of the principal Act applies.

38. There shall be added in line three, sub-section (3), of the fourth schedule of the principal Act, after "earthenware," the words "or china."

39. [*Repeal.*]

40. [*Commencement of Act: 1st Jany., 1892.*]

41.—(1) This Act may be cited as the Factory and Workshop Act, 1891, and shall be construed as one with the Factory and Workshop Act, 1878.

(2) The Factory and Workshop Act, 1878, the Factory and Workshop Act, 1883, and the Cotton Cloth Factories Act, 1889 (*x*), may, together with this Act, be cited collectively as the Factory and Workshops Acts, 1878 to 1891.

## SCHEDULES.

### FIRST SCHEDULE.

1. The parties to the arbitration are in this schedule deemed to be the occupiers of the factory or workshop on the one hand and the chief inspector, on behalf of the Secretary of State, on the other (*y*).

2. Each of the parties to the arbitration may, within fourteen days after the date of the reference, appoint an arbitrator.

3. No person shall act as arbitrator or umpire under this Act who is employed in, or in the management of, or is interested in, the factory or workshop to which the arbitration relates.

4. The appointment of an arbitrator under this section shall be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of that party.

5. The death or removal of, or other change in, any of the parties to the arbitration shall not affect the proceedings under this schedule.

6. If within the said fourteen days either of the parties fails to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final.

7. If before an award has been made any arbitrator appointed by either party dies or becomes incapable to act, or for seven days refuses or neglects to act, the party by whom that arbitrator was appointed may appoint some other person to act in his place; and if he fails to do so within seven days after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final.

8. In either of the foregoing cases where an arbitrator is empowered to act singly, on one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who shall then act as if no failure had occurred.

9. If the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned.

10. The arbitrators, before they enter on the matter referred to them, shall appoint by writing under their hands an umpire to decide on points on which they may differ.

(*x*) **Cotton Cloth Factories Act, 1889.**—No powers or duties devolve on the London local authorities under this Act.

(*y*) **Parties to the arbitration.**—The provisions of this schedule apply also to arbitrations between the owner of a factory or workshop and the London County Council under sec. 7 (2), *ante*.

11. If the umpire dies or becomes incapable of acting before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the persons or person who appointed such umpire shall forthwith appoint another umpire in his place. 54 & 55 Vict.  
c. 75.

12. If the arbitrators refuse or fail, or for seven days after the request of either party neglect, to appoint an umpire, then on the application of either party an umpire may be appointed by the chairman of the quarter sessions within the jurisdiction of which the factory or workshop is situate.

13. The decision of every umpire on the matters referred to him shall be final.

14. If a single arbitrator fails to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place.

15. Arrangements shall, whenever practicable, be made for the matters in difference being heard at the same time before the arbitrators and the umpire.

16. The arbitrators and the umpire, or any of them, may examine the parties and their witnesses on oath, and may also consult any counsel, engineer, or scientific person whom they may think it expedient to consult.

17. The payment, if any, to be made to any arbitrator or umpire for his services shall be fixed by the Secretary of State and together with the costs of the arbitration and award shall be paid by the parties, or one of them, according as the award may direct. Such costs may be taxed by a master of the Supreme Court, or, in Scotland, by the auditor of the Court of Session, and the taxing officer shall, on the written application of either of the parties, ascertain and certify the proper amount thereof. The amount, if any, payable by the Secretary of State shall be paid as part of the expenses of inspectors under the principal Act. The amount, if any, payable by the occupier of the factory or workshop may in the event of non-payment be recovered in the same manner as fines under the principal Act.

#### SECOND SCHEDULE.

[*Enactments Repealed.*]

### FACTORY AND WORKSHOP ACT, 1895.

**58 & 59 Vict. c. 37.** An Act to amend and extend the Law relating to Factories and Workshops. [6th July, 1895]

#### GENERAL LAW RELATING TO FACTORIES AND WORKSHOPS.

##### *Sanitary Provisions and Safety.*

1.—(1) A factory shall for the purpose of section three of the principal Act, and a workshop shall for the purpose of the law relating to public health, be deemed to be so overcrowded as to be dangerous or injurious to the health of the persons employed therein, if the number of cubic feet of space in any room therein bears to the number of persons employed at once in the room a proportion less than two hundred and fifty, or, during any period of overtime, four hundred, cubic feet of space to every person (z). Overcrowding  
of factory or  
workshop.

(2) Provided that the Secretary of State may, by order made in accordance with section sixty-five of the principal Act, modify this proportion for any period during which artificial light other than electric light is employed for illuminating purposes, and may by like order, as regards any particular manufacturing process or handicraft, substitute for the said figures of two hundred and fifty and four hundred respectively any higher figures, and thereupon this section shall have effect as modified by the order.

(3) Section seventy-eight of the principal Act shall be read as if there were included among the notices required by that section to be affixed a notice specifying the number of persons who may be employed in each room of the factory or workshop by virtue of this section.

(z) **Overcrowding.**—See the Pub. Hlth. (London) Act, 1891, sec. 2 (1) (g), *ante*, vol. i.

58 & 59 Vict.  
c. 37.

Provision as to  
notice to sani-  
tary authority.

Penalty for  
allowing  
wearing  
apparel to be  
made in place  
where there is  
infectious  
disease.

Provisions for  
escape from  
fire.

Provision as to  
arbitration  
with respect to  
fire escapes.

2. [*Power to court of summary jurisdiction, on complaint of inspector, to make order as to dangerous factory or workshop.*]

3.—(1) Where notice of an act, neglect, or default is given by an inspector under section four of the principal Act to a sanitary authority, it shall be the duty of the sanitary authority to inform the inspector of the proceedings taken in consequence of the notice.

(2) In section two of the Act of 1891, for the words "within a reasonable time" shall be substituted the words "within one month."

4. [*Power to make order as to dangerous machine.*]

5. [*Penalty for employment of persons in places injurious to health.*]

6. If any occupier of a factory or workshop or laundry or of any place from which any work is given out, or any contractor employed by any such occupier, causes or allows wearing apparel to be made, cleaned, or repaired in any dwelling-house or building occupied therewith, whilst any inmate of the dwelling-house is suffering from scarlet fever or smallpox, then, unless he proves that he was not aware of the existence of the illness in the dwelling-house, and could not reasonably have been expected to become aware of it, he shall be liable to a fine not exceeding ten pounds.

7—8. [*Amendment of principal Act, secs. 5 and 9.*]

9. [*Regulation as to position of self-acting machine.*]

10.—(1) A court of summary jurisdiction may, on complaint by an inspector, and on being satisfied that the provision of a movable fire escape or movable fire escapes is required for the safety of any of the persons employed in a factory or workshop, by order require the occupier of the factory or workshop to provide and maintain a movable fire escape or movable fire escapes sufficient for that purpose.

(2) While any person employed in a factory or workshop is within the factory or workshop for the purpose of employment or meals, the doors of the factory or workshop, and of any room therein in which any such person is, shall not be locked or bolted or fastened in such a manner that they cannot be easily and immediately opened from the inside.

(3) In every factory or workshop the construction of which is commenced after the commencement of this Act, the doors of each room in which more persons than ten are employed, shall, except in the case of sliding doors, be constructed so as to open outwards.

(4) Sub-section one of section seven of the Act of 1891 shall apply to all workshops the construction of which is commenced after the commencement of this Act, and in which more than forty persons are employed, in like manner as it applies to factories, and sub-section two of that section shall apply to all workshops to which the foregoing provision of this sub-section does not apply, in like manner as it applies to factories.

(5) For the purpose of enforcing the provisions of section seven of the Act of 1891 with respect to fire escapes, an inspector may give the like notice and take the like proceedings as under section four of the principal Act and section two of the Act of 1891, and the provisions of those sections shall apply accordingly.

(6) If there is any contravention of an order under this section the occupier of the factory or workshop shall be liable to a fine not exceeding forty shillings a day during such contravention, and a factory or workshop in which there is a contravention of the requirements of this section shall be deemed not to be kept in conformity with the principal Act.

11.—(1) An application to refer, under section seven of the Act of 1891, a difference as to a notice by a sanitary authority or by the London County Council must be made within one month after (a) the time when the difference arises.

(2) Where such a difference is referred to arbitration, the notice of the sanitary authority or council shall be discharged, amended, or confirmed in accordance with the award in the arbitration.

12. [*Representation of workmen on arbitration as to special rules.*]

(a) **Within one month after.**—See note to sec. 29 of the Factory and Workshop Act, 1891, *ante*, for the meaning of this expression.



13. [*Extension of sec. 82 of principal Act.*]

14–16. [*Restrictions on employment.*]

17. [*Holidays.*]

18–21. [*Accidents.*]

58 & 59 Vict.  
c. 37.

#### SPECIAL RULES AND REQUIREMENTS.

##### *Laundries.*

22.—(1) In any laundry carried on by way of trade, or for purpose of gain, the following provisions shall apply:—

Application of  
Factory Acts to  
laundries.

\* \* \* \* \*

(iv) So far as regards sanitary provisions, safety, accidents, the affixing of notices and abstracts and the matters to be specified in such notices (so far as they apply to laundries), notice of occupation of a factory or workshop, powers of inspectors, fines, and legal proceedings for any failure to comply with the provisions of this section, and education of children, the Factory Acts shall have effect as if every laundry in which steam, water, or other mechanical power is used in aid of the laundry process were a factory, and every other laundry were a workshop; and as if every occupier of a laundry were the occupier of a factory or of a workshop.

\* \* \* \* \*

(3) Nothing in this section shall apply to any laundry in which the only persons employed are—

(a) inmates of any prison, reformatory, or industrial school, or other institution for the time being subject to inspection under any Act other than the Factory Acts; or

(b) inmates of an institution conducted in good faith for religious or charitable purposes; or

(c) members of the same family dwelling there,

or in which not more than two persons dwelling elsewhere are employed.

\* \* \* \* \*

23. [*Docks, &c.*]

24–26. [*Tenement factories.*]

##### *Bakehouses.*

27.—(1) Sections thirty-four and thirty-five of the principal Act shall apply to every bakehouse, and so much of those sections as limits the operation thereof to cities, towns, and places having a population of more than five thousand persons shall be repealed.

Provisions as to  
bakehouses.

(2) In section fifteen of the Factory and Workshop Act, 1883, the words, “which was not so let or occupied before the first day of June, one thousand eight hundred and eighty-three,” shall be repealed.

46 & 47 Vict.  
c. 53.

(3) A place under ground shall not be used as a bakehouse unless it is so used at the commencement of this Act, and if any place is so used in contravention of this Act it shall be deemed to be a workshop not kept in conformity with the principal Act.

28. [*Restrictions on employment in dangerous trades.*]

29. [*Notification of certain diseases to chief inspector.*]

30. [*Lavatories in dangerous trades.*]

31. [*Humid factories.*]

32. [*Temperature in factories and workshops.*]

33. [*Amendment of sec. 36 of principal Act.*]

34. [*Annual return of persons employed to be sent to inspector.*]

35.—(1) In every place where section twenty-two of the Public Health Acts Amendment Act, 1890 (b) is not in force every factory or workshop shall be provided with sufficient and suitable accommodation in the way of sanitary

Sanitary  
conveniences.  
53 & 54 Vict.  
c. 59.

(b) Pub. Hlth. Acts Amend. Act, 1890.—This Act does not apply to London.

58 & 59 Vict.  
c. 37.

conveniences (c) having regard to the number of persons employed in or in attendance at the factory or workshop, and also where persons of both sexes are employed or intended to be employed, or in attendance, with proper separate accommodation for persons of each sex.

(2) A factory or workshop in which there is a contravention of this section shall be deemed not to be kept in conformity with the principal Act.

**36—38.** [*Amendment of secs. 13, 14, 53, third schedule, part iii., and sec. 58 of principal Act.*]

**39.** [*Treatment of separate branches as separate factories.*]

**40.** [*Particulars respecting wages in certain cases.*]

Notice of  
existing  
workshops.

**41.** Every person who is in occupation of a workshop at the commencement of this Act shall before the expiration of twelve months from the commencement of this Act, unless he has already done so in pursuance of section twenty-six of the Act of 1891, serve on the inspector for the district a written notice containing the name of the workshop, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work, and the name of the person or firm under which the business of the workshop is carried on, and in default shall be liable to a fine not exceeding five pounds. Any notice so served shall be forthwith forwarded to the sanitary authority of the district in which the workshop is situate.

Amendment  
and extension  
of 54 & 55 Vict.  
c. 75, s. 27,  
respecting lists  
of out-workers.

**42.**—(1) Every occupier of a factory or workshop to whom section twenty-seven of the Act of 1891 for the time being applies, and every contractor employed by any such occupier in the business of the factory or workshop, shall, on or before the first day of March and the first day of September in each year, send to the inspector for the district in which the factory or workshop is situate a list showing the names of all persons directly employed by him, either as workmen or as contractors, in the business of the factory or workshop outside the factory or workshop, and the places where they are employed, and in default of so doing shall be liable to a fine not exceeding forty shillings.

(2) Section twenty-seven of the Act of 1891 and this section shall apply to any place from which any work of making wearing apparel for sale is given out, and to the occupier of that place, and to every contractor employed by any such occupier in connexion with the said work, as if that place were a workshop.

Evidence as to  
failure to  
limewash.

**43.** Failure to enter in the register kept in pursuance of section seventy-seven of the principal Act the prescribed particulars as to lime-washing shall be prima facie evidence of failure to observe the requirements of the Factory Acts with respect to lime-washing.

Amendment of  
41 & 42 Vict.  
c. 16, ss. 66,  
75, and 54 & 55  
Vict. c. 75, s.  
29.

**44.**—(1) In sections sixty-six and seventy-five of the principal Act the words “the inspector for the district” shall be substituted for the words “an inspector” wherever they occur in those sections.

(2) In section twenty-nine of the Act of 1891, the words “the factory inspector for the district within which the offence is charged to have been committed” shall be substituted for the words “a factory inspector.”

**45.** [*Amendment of sec. 68 of principal Act.*]

**46.** [*Special inquiries, &c. by certifying surgeons.*]

**47.** [*Publication of orders of Secretary of State.*]

Service of  
documents on  
owner.

**48.** Any notice, order, requisition, summons, or document, required or authorised by the Factory Acts to be served on the owner, as defined by this Act, of a factory or workshop, may be served by delivering the same or a true copy thereof to the agent of the owner as so defined.

Competency of  
defendant to  
give evidence.

**49.** A person charged with an offence under the Factory Acts may, if he thinks fit, tender himself to be examined on his own behalf, and thereupon he may give evidence in the same manner and with the like effect and consequences as any other witness.

Payment of  
costs by actual  
offender in lieu  
of occupier.

**50.** Where, in pursuance of section eighty-seven of the principal Act, some person other than the occupier of a factory or workshop is brought before a court

(c) **Sanitary conveniences.**—Very ample powers with respect to the provision of sanitary conveniences in factories and workshops are conferred on the London sanitary authorities by the Pub. Hlth. (London) Act, 1891, sec. 38, *ante*, vol. i.

of summary jurisdiction, and convicted of an offence with which the occupier was charged, that person shall in the discretion of the court be liable to pay any costs incidental to the proceeding. 58 & 59 Vict. c. 37.

51. [*Right of inspector to conduct proceedings before magistrates.*]

52. [*Application to Ireland.*]

53. In this Act, unless the context otherwise requires—

(1) The expression “the Factory Acts” means the Factory and Workshop Acts, 1878 to 1891, and this Act:

Interpretation.

The expression “the principal Act” means the Factory and Workshop Act, 1878:

The expression “the Act of 1891” means the Factory and Workshop Act, 1891:

The expression “owner” has the meaning given to it by section four of the Public Health Act, 1875 (*d*).

(2) References to any section of the Factory Acts shall be construed as references to that section as amended by subsequent enactments, including this Act.

38 & 39 Vict. c. 55.

54. [*Repeal.*]

55. [*Commencement of Act: 1st January, 1896.*]

56. This Act may be cited as the Factory and Workshop Act, 1895, and shall be construed as one with the Factory and Workshop Acts, 1878 to 1891, and those Acts and this Act may be cited collectively as the Factory and Workshop Acts, 1878 to 1895. Short titles and construction.

#### FIRST SCHEDULE.

[*Regulations as to Grinding in Tenement Factory.*]

#### SECOND SCHEDULE.

[*Scale of Fees to Certifying Surgeons.*]

#### THIRD SCHEDULE.

[*Enactments Repealed.*]

(*d*) **Owner.**—The Pub. Hlth. Act, 1875, sec. 4, defines “owner” to mean “the person for the time being receiving the rackrent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such lands or premises were let at a rackrent.” See also the definition of “owner” in the Met. Man. Act, 1855, sec. 250 and cases cited in note thereto, *ante*, vol. I.



**FERTILISERS AND FEEDING STUFFS.****FERTILISERS AND FEEDING STUFFS ACT, 1893.**

**56 & 57 Vict. c. 56.** An Act to amend the Law with respect to the sale of Agricultural Fertilisers and Feeding Stuffs.

[22nd September, 1893]

Warranty on  
sale of  
fertiliser.

**1.—(1)** Every person who sells for use as a fertiliser of the soil any article manufactured in the United Kingdom or imported from abroad shall give to the purchaser an invoice stating the name of the article and whether it is an artificially compounded article or not, and what is at least the percentage of the nitrogen, soluble and insoluble phosphates, and potash, if any, contained in the article, and this invoice shall have effect as a warranty by the seller of the statements contained therein.

(2) For the purposes of this section an article shall be deemed to be manufactured if it has been subjected to any artificial process.

(3) This section shall not apply to a sale where the whole amount sold at the same time weighs less than half a hundredweight.

Warranty on  
sale of feeding  
stuff.

**2.—(1)** Every person who sells for use as food for cattle any article which has been artificially prepared shall give to the purchaser an invoice stating the name of the article and whether it has been prepared from one substance or seed, or from more than one substance or seed, and this invoice shall have effect as a warranty by the seller of the statements contained therein.

(2) Where any article sold for use as food for cattle is sold under a name or description implying that it is prepared from any particular substance, or from any two or more particular substances, or is the product of any particular seed, or of any two or more particular seeds, and without any indication that it is mixed or compounded with any other substance or seed, there shall be implied a warranty by the seller that it is pure, that is to say, is prepared from that substance or those substances only, or is a product of that seed or those seeds only.

(3) On the sale of any article for use as food for cattle there shall be implied a warranty by the seller that the article is suitable for feeding purposes.

(4) Any statement by the seller of the percentages of nutritive and other ingredients contained in any article sold for use as food for cattle, made after the commencement of this Act in an invoice of such article or in any circular or advertisement descriptive of such article, shall have effect as a warranty by the seller.

Penalties for  
breach of duty  
by seller.

**3.—(1)** If any person who sells any article for use as a fertiliser of the soil or as food for cattle commits any of the following offences, namely—

(a) Fails without reasonable excuse to give, on or before or as soon as possible after the delivery of the article, the invoice required by this Act; or

(b) Causes or permits any invoice or description of the article sold by him to be false in any material particular to the prejudice of the purchaser; or

(c) Sells for use as food for cattle any article which contains an ingredient deleterious to cattle, or to which has been added any ingredient worthless for feeding purposes and not disclosed at the time of the sale, he shall, without prejudice to any civil liability (a), be liable, on summary conviction (b), for a first offence to a fine not exceeding twenty pounds and for any subsequent offence to a fine not exceeding fifty pounds.

(2) In any proceeding for an offence under this section it shall be no defence to allege that the buyer, having bought only for analysis, was not prejudiced by the sale.

(3) A person alleged to have committed an offence under this section in respect of an article sold by him shall be entitled to the same rights and remedies, civil or criminal, against the person from whom he bought the article as are available

(a) **Civil liability.**—See *Wieler v. Schilizzi*, 17 C. B. 619; 25 L. J. C. P. 89; *Allan v. Lake*, 18 Q. B. 560; and *Lovegrove v. Fisher*, 2 F. & F. 128.

(b) **Summary conviction. Appeal.**—As to the time and manner of proceeding summarily, and of appealing to quarter sessions, or to the High Court on a case stated, see note to sec. 227 of the Met. Man. Act, 1855, *ante*, vol. i.

to the person who bought the article from him, and any damages recovered by him may, if the circumstances justify it, include the amount of any fine and costs paid by him on conviction under this section, and the costs of and incidental to his defence on such conviction.

56 & 57 Vict.  
c. 56.

4.—(1) The Board of Agriculture shall appoint a chief agricultural analyst (hereafter referred to as the chief analyst), who shall have such remuneration out of moneys provided by Parliament as the Treasury may assign. The chief analyst shall not while holding his office engage in private practice.

Power to ap-  
point analysts.

(2) Every county council shall, and the council of any county borough may, appoint or concur with another council or other councils in appointing for the purposes of this Act a district agricultural analyst (hereafter referred to as a district analyst) for its county or borough, or a district comprising the counties or boroughs of the councils so concurring. The remuneration of any such district analyst shall be provided by the council, or in the case of a joint appointment by the respective councils in such proportions as they may agree, and shall be paid, in the case of a county, as general expenses, and, in the case of a county borough, out of the borough fund or borough rate. The appointment shall be subject to the approval of the Board of Agriculture. Provided that no person shall while holding the office of district analyst engage in any trade, manufacture, or business connected with the sale or importation of articles used for fertilising the soil or as food for cattle.

5.—(1) Every buyer of any article used for fertilising the soil or as food for cattle shall, on payment to a district analyst of a fee sanctioned by the body who appointed the analyst, be entitled, within ten days after delivery of the article to the buyer or receipt of the invoice by the buyer, whichever is later, to have the article analysed by the analyst, and to receive from him a certificate of the result of his analysis.

Power for pur-  
chaser to have  
fertiliser or  
feeding stuff  
analysed.

(2) Where a buyer of an article desires to have the article analysed in pursuance of this section, he shall, in accordance with regulations made by the Board of Agriculture (c), take three samples of the article, and shall in accordance with the said regulations cause each sample to be marked, sealed, and fastened up, and shall deliver or send by post one sample with the invoice or a copy thereof to the district analyst, and shall give another sample to the seller, and shall retain the third sample for future comparison: Provided that a district analyst, or some person authorised by him in that behalf with the approval of the body who appointed the analyst, shall, on request either by the buyer or by the seller, and on payment of a fee sanctioned by the said body, take the samples on behalf of the buyer.

(3) The certificate of the district analyst shall be in such form and contain such particulars as the Board of Agriculture direct (d), and every district analyst shall report to the Board as they direct the result of any analysis made by him in pursuance of this Act.

(4) If the seller or the buyer objects to the certificate of the district analyst, one of the samples selected, or another sample selected in like manner, may, at the request of the seller, or, as the case may be, the buyer, be submitted with the invoice or copy thereof to the chief analyst, and the seller, or, as the case may be, the buyer, shall, on payment of a fee sanctioned by the Treasury, be entitled to have the sample analysed by the chief analyst, and to receive from him a certificate of the result of his analysis.

(5) At the hearing of any civil or criminal proceeding with respect to any article analysed in pursuance of this section, the production of a certificate of the district analyst, or if a sample has been submitted to the chief analyst, then of the chief analyst, shall be sufficient evidence of the facts therein stated, unless the defendant or person charged requires that the analyst be called as a witness.

(6) The costs of and incidental to the obtaining of any analysis in pursuance of this section shall be borne by the seller or the buyer in accordance with the results of the analysis, and shall be recoverable as a simple contract debt.

6. If any person knowingly and fraudulently—

Penalty for  
tampering.

(c) **Regulations.**—The regulations issued by the Bd. of Agriculture under this section are intitled the "Fertilisers and Feeding Stuffs Regulations, 1893."

(d) **Certificate.**—The forms of certificate of the district analyst are prescribed by order of the Bd. of Agriculture dated Dec. 23rd, 1893.

56 & 57 Vict.  
c. 56. —

(a) tampers with any parcel of fertiliser or feeding stuff so as to procure that any sample of it taken in pursuance of this Act does not correctly represent the contents of the parcel; or

(b) tampers with any sample taken under this Act;  
he shall be liable on summary conviction (e) to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding six months.

Prosecutions  
and appeals.

7.—(1) A prosecution for an offence under this Act may be instituted either by the person aggrieved, or by the council of a county or borough, or by any body or association authorised in that behalf by the Board of Agriculture, but in the case of an offence under section three shall not be instituted by the person aggrieved or by any body or association except on a certificate by the Board of Agriculture that there is reasonable ground for the prosecution.

(2) Any person aggrieved by a summary conviction under this Act may appeal to a court of quarter sessions (e).

Construction  
and applica-  
tion.

8.—(1) For the purposes of this Act the expression “cattle” shall mean bulls, cows, oxen, heifers, calves, sheep, goats, swine, and horses; and the expressions “soluble” and “insoluble” shall respectively mean soluble and insoluble in water.

(2) This Act shall apply to wholesale as well as retail sales.

9. [*Application to Scotland.*]

10. [*Application to Ireland.*]

11. [*Commencement of Act: January 1st, 1894.*]

Short title.

12. This Act may be cited as the Fertilisers and Feeding Stuffs Act, 1893.

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(e) Summary conviction. Appeal.—See note (b) on page 868.



## FIRE BRIGADE.

- 28 & 29 Vict. c. 90 ("Metropolitan Fire Brigade Act, 1865")..... page 871  
 56 & 57 Vict. ch. ccxxi., sec. 16 ("London County Council (Gen. Powers) Act, 1893")..... note (b) 871

## METROPOLITAN FIRE BRIGADE ACT, 1865.

- 28 & 29 Vict. c. 90. An Act for the Establishment of a Fire Brigade within the Metropolis. [5th July, 1865]

*Preliminary.*

1. This Act may be cited for all purposes as the "Metropolitan Fire Brigade Act, 1865." Short title.
2. For the purposes of this Act the "Metropolis" shall mean the City of London and all other parishes and places for the time being within the jurisdiction of the *Metropolitan Board of Works* (a). Definition of "Metropolis" and "Insurance company."
- "Insurance company" shall include any persons corporate or unincorporate, or any person carrying on the business of fire insurance.
3. The expression "Metropolis Local Management Acts" shall mean the Acts following; that is to say, "The Metropolis Management Act, 1855," "The Metropolis Management Amendment Act, 1856," and "The Metropolis Management Amendment Act, 1862." Definition of "Metropolis Local Management Acts."

*Establishment and Duties of Fire Brigade.*

4. The duty of extinguishing fires and protecting life and property in case of fire shall within the Metropolis be deemed for the purposes of this Act to be entrusted to the *Metropolitan Board of Works* (a); and with a view to the performance of that duty it shall be lawful for them to provide and maintain an efficient force of firemen, and to furnish them with all such fire engines, horses, accoutrements, tools, and implements as may be necessary for the complete equipment of the force, or conducive to the efficient performance of their duties. Duty of County Council in relation to fires.
5. The said *Board* (a), hereinafter referred to as the *Board* (a), may take on lease, purchase, or otherwise acquire stations for engines, stables, houses for firemen, and such other houses, buildings, or land as they may think requisite for carrying into effect the purposes of this Act, and may from time to time sell any property acquired by or vested in them for the purposes of this Act. Purchase of buildings and land.
- The *Board* (a) may also contract with any company or persons authorised to establish the same for the establishment of telegraphic communication between the several stations in which their fire engines or firemen are placed, and between any of such stations and other parts of the Metropolis (b).
6. All stations, fire engines, fire escapes, plant, and other property belonging to or used by the fire engine establishment of the insurance companies in the Metropolis shall vest in or be conveyed or assigned to the *Board* (a) for all the estate and interest of the said companies therein, upon trust to be applied by the *Board* (a) to the purposes of this Act, but subject to all legal liabilities and obligations attaching thereto, including the payment of all pensions that have been granted to the members of the said fire engine establishment, according to a list that has been furnished to the chairman of the said *Board* (a) by the chief officer of the said fire engine establishment, and all trustees for the same shall be indemnified against such liabilities and obligations. The *Board* (a) may also, if Transfer of plant of existing fire offices.

(a) *Met. Bd. Wks.*—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(b) *Telegraphic communication. False fire alarms.*—"Any person giving a false fire alarm to the Metropolitan Fire Brigade or any officer thereof, whether by means of a street fire alarm or otherwise, shall be deemed guilty of an offence punishable on summary conviction, and shall on conviction for such offence by a court of summary jurisdiction be liable for every such offence to a penalty of not exceeding twenty pounds." Lon. Coun. Council. (Genl. Powers) Act, 1893 (56 & 57 Vict. ch. ccxxi.), sec. 16.

- 28 & 29 Vict.  
c. 90. they think fit, purchase the stations, fire engines, and plant belonging to any parish, place, or body of persons within their jurisdiction.
- Constitution of  
fire brigade. 7. The force of firemen established under this Act, hereinafter called the Metropolitan Fire Brigade, shall be under the command of an officer, to be called the chief officer of the Metropolitan Fire Brigade.  
The chief officer and men composing the said fire brigade shall be appointed and removed at the pleasure of the Board.
- Salaries of  
fire brigade. 8. The *Board* (c) shall pay such salaries as they think expedient to the said fire brigade. They may also make such regulations as they think fit with respect to the compensation to be made to them in case of accident, or to their wives or families in case of their death; also with respect to the pensions or allowances to be paid to them in case of retirement; also with respect to the gratuities to be paid to persons giving notices of fires; also with respect to gratuities by way of a gross sum or annual payment to be from time to time awarded to any member of the said force, or to any other person, for extraordinary services performed in cases of fire; also with respect to gratuities to turncocks belonging to waterworks from which a supply of water is quickly derived.
- Power to make  
regulations for  
fire brigade. 9. The *Board* (c) may by byelaws make regulations for the training, discipline, and good conduct of the men belonging to the said fire brigade, for their speedy attendance with engines, fire escapes, and all necessary implements on the occasion of any alarm of fire, and generally for the maintenance in a due state of efficiency of the said brigade, and may annex to any breach of such regulations penalties not exceeding in amount forty shillings, but no byelaw under this section shall be of any validity unless it is made and confirmed in manner directed by the Metropolis Local Management Acts; and all the provisions of the said Acts relating to byelaws (d) shall, with the necessary variations, apply to any byelaws made in pursuance of this Act.
- Compensation  
to parish  
officers. 10. The vestry of any parish or place in the Metropolis may allow such compensation as they think just to any engine keeper or other person employed in the service of fire engines who has hitherto been paid out of any rate raiseable in such parish or place, and who is deprived of his employment by or in consequence of the passing of this Act, and any compensation so allowed shall be paid out of the rate out of which the salary of the officer so compensated was payable.
- As to purchase  
of fire escapes. 11. The *Board* (c) may make such arrangements as they think fit as to establishing fire escapes throughout the Metropolis. They may for that purpose contribute to the funds of the Royal Society for the Protection of Life from Fire, or of any existing society that provides fire escapes, or may purchase or take by agreement the property of any existing society in their stations and fire escapes, and generally may maintain such fire escapes and do such things as they think expedient towards aiding persons to escape from fire; and any expenses incurred by them in pursuance of this section shall be deemed to be expenses incurred in carrying into effect this Act.
- As to powers of  
fire brigade. 12. On the occasion of a fire the chief or other officer in charge of the fire brigade may, in his discretion, take the command of any volunteer fire brigade or other persons who voluntarily place their services at his disposal, and may remove, or order any fireman to remove, any persons who interfere by their presence with the operations of the fire brigade, and generally he may take any measures that appear expedient for the protection of life and property, with power by himself or his men to break into or through, or take possession of, or pull down any premises (e) for the purpose of putting an end to a fire, doing as little damage as possible; he may also on any such occasion cause the water to be shut off from the mains and pipes of any district, in order to give a greater supply and pressure of water in the district in which the fire has occurred; and

(c) *Met. Bd. Wks.*—Now the London County Council. *Loc. Govt. Act. 1888*, sec. 40 (8), *ante*, vol. i.

(d) *Byelaws.*—See *Met. Man. Act, 1855*, secs. 202 and 203, *ante*, vol. i.

(e) *Take possession of premises.*—As to taking possession of property on such premises, see *Joyce v. Met. Bd. Wks.*, *post*, p. 874.

no water company shall be liable to any penalty or claim by reason of any interruption of the supply of water occasioned only by compliance with the provisions of this section.

28 & 29 Vict.  
c. 90.

All police constables shall be authorised to aid the fire brigade in the execution of their duties. They may close any street in or near which a fire is burning, and they may of their own motion, or on the request of the chief or other officer of the fire brigade remove any persons who interfere by their presence with the operations of the fire brigade.

Any damage occasioned by the fire brigade in the due execution of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

#### *Expenses.*

13. Every insurance company that insures from fire any property in the Metropolis shall pay annually to the *Metropolitan Board of Works* (*f*) by way of contribution towards the expenses of carrying this Act into effect, a sum after the rate of thirty-five pounds in the one million pounds on the gross amounts insured by it, except by way of reinsurance, in respect of property in the Metropolis for a year, and at a like rate for any fractional part of a million, and for any fractional part of a year as well as for any number of years for which the insurance may be made, renewed, or continued.

Contributions  
by insurance  
offices.

The said payments by insurance companies shall be made quarterly in advance, on the first of January, first of April, first of July, and first of October in every year . . .

14. All contributions due from an insurance company to the *Board* (*f*) in pursuance of this Act shall be deemed to be specialty debts due from the company to the *Board* (*f*), and be recovered accordingly.

Mode of en-  
forcing contri-  
butions.

15. For the purpose of ascertaining the amount to be contributed by every such insurance company as aforesaid, every insurance company insuring property from fire in the Metropolis shall, . . . on every first of June, or on such other days as the *Metropolitan Board of Works* (*f*) may appoint, make a return to the said *Board* (*f*), in such form as they may require, of the gross amount insured by it in respect of property in the Metropolis.

Mode of  
ascertaining  
proportions of  
contributions.

There shall be annexed to the return so made a declaration made by the secretary or other officer performing the duties of secretary of the company by whom it is made, stating that he has examined the return with the books of the company, and that to the best of his knowledge, information, and belief it contains a true and faithful account of the gross amount of the sums insured by the company to which he belongs in respect of property in the Metropolis.

The return made in the June of one year shall not come into effect till the first of January of the succeeding year, and shall be the basis of the contributions for that year.

16. If any insurance company makes default in making such returns to the *Board* (*f*) as are required by this Act, it shall be liable to a penalty not exceeding five pounds for every day during which it is so in default.

Penalty on  
insurance  
company not  
making return.  
Examination of  
books of  
insurance  
companies.

17. The secretary or other officer having the custody of the books and papers of any insurance company that is required to pay a contribution to the *Board* (*f*) in pursuance of this Act shall allow any officer appointed by the *Board* (*f*) to inspect, during the hours of business, any books and papers that will enable him to ascertain the amount of property insured by such company in the Metropolis, and the amount for which it is insured, and to make extracts from such books or papers; and any secretary or other such officer as aforesaid of a company failing to comply with the requisitions of this section in respect of such inspections and extracts shall be liable on summary conviction to a penalty not exceeding five pounds for each offence.

18. The Treasury shall pay or cause to be paid to the Board by way of contribution to the expenses of maintaining the fire brigade such sums as Parliament may from time to time grant for that purpose, not exceeding in any one year the sum of ten thousand pounds.

Contributions  
by Government  
towards  
expense of  
brigade.

19—21. [*Expenses of Act not specially provided for. Rep. by Met. Bd. Wks.*



28 & 29 Vict.  
c. 90.

(*Loans*) Act, 1869, *post*, tit. "*Loans*." See sec. 22 and sched. i. of that Act for substituted provisions.]

*Miscellaneous.*

Power to turn  
discharged  
officers or men  
out of houses  
provided for  
them.

22. Where any chief officer, or other person who has been employed by the *Board* (g) in any capacity under this Act, and has been discharged therefrom, continues to occupy any house or building that may be provided for his use, or any part thereof, after one week's notice in writing from the *Board* (g) to deliver up possession thereof, it shall be lawful for any police magistrate, on the oath of one witness, stating such notice to have been given, by warrant under his hand to order any constable to enter into the house or building occupied by such discharged chief officer or other person as aforesaid, and to remove him and his family and servants therefrom, and afterwards to deliver the possession thereof to the *Board* (g), as effectually to all intents and purposes as the sheriff having jurisdiction within the place where such house or building is situate might lawfully do by virtue of a writ of possession or a judgment at law.

Penalty where  
chimneys are  
on fire.

23. If the chimney of any house or other building within the Metropolis is on fire, the occupier of such house or building shall be liable to a penalty not exceeding twenty shillings; but if such occupier proves that he has incurred such penalty by reason of the neglect or wilful default of any other person, he may recover summarily from such person the whole or any part of the penalty he may have incurred as occupier.

Recovery of  
penalties.

11 & 12 Vict.  
c. 43.

24. All penalties imposed by this Act, or by any byelaw made in pursuance thereof, and all expenses and other sums due to the *Board* (g) in pursuance of this Act, in respect of which no mode of recovery is prescribed, may be recovered summarily before two justices in manner directed by the Summary Jurisdiction Act, 1848 (h), or any Act amending the same, and when so recovered shall be paid to the treasurer of the *Board* (g), notwithstanding any Police Act or other Act of Parliament directing a different appropriation of such moneys (i).

Summary pro-  
ceedings for  
determining  
certain  
matters.

11 & 12 Vict.  
c. 43.

25. Any dispute or other matter which is by this Act directed to be determined summarily by two justices shall be deemed to be a matter in respect of which a complaint is made upon which they have authority by law to make an order for payment of money within the meaning of the said Summary Jurisdiction Act, 1848 (h), or any Act amending the same.

Extension of  
powers given to  
two justices.

26. Any act, power, or jurisdiction hereby authorised to be done or exercised by two justices may be done or exercised by the following magistrates within their respective jurisdictions; that is to say, by any Metropolitan police magistrate sitting alone at a police court or other appointed place, or by the Lord Mayor of the City of London, or any alderman of the said City, sitting alone or with others at the Mansion House or Guildhall.

27—28. [*Rep. by 56 & 57 Vict. c. 54. Statute Law Revision.*]

Establishment  
of salvage  
force by insur-  
ance offices.

29. If the companies insuring property within the Metropolis, or any such number of them as may in the opinion of the said *Board* (g) be sufficient, establish a force of men charged with the duty of attending at fires and saving insured property, it shall be the duty of the fire brigade, with the sanction of the Board, and subject to any regulations that may be made by the *Board* (g), to afford the necessary assistance to that force in the performance of their duties, and upon the application of any officer of that force, to hand over to their custody property that may be saved from fire (k); and no charge shall be made by the said *Board* (g) for the services thus rendered by the fire brigade.

(g) *Met. Bd. Wks.*—Now the London Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(h) *Recovery of penalties.*—For the time and manner of taking summary proceedings, see note to *Met. Man. Act*, 1855, sec. 227, *ante*, vol. i.

(i) *Appropriation of penalties.*—See note to sec. 26 of the *Sale of Food and Drugs Act*, 1875, *post*, tit. "*Food and Drugs*."

(k) *Property saved from fire.*—It is not the imperative duty of the fire brigade to take possession of property on premises where a fire breaks out, but the statute gives them power to do so. If they do so, and through the negligence of the officers in command, any of the property is stolen by members of the brigade, the County Council will be liable. *Joyce v. Met. Bd. Wks.*, 45 J. P. 667; 44 L. T. (N. S.) 811.

30. It shall be lawful for the *Board* (l) when occasion requires, to permit any part of the fire brigade establishment, with their engines, escapes, and other implements, to proceed beyond the limits of the Metropolis for the purpose of extinguishing fires. In such case the owner and occupier of the property where the fire has occurred shall be jointly and severally liable to defray all the expenses that may be incurred by the fire brigade in attending the fire, and shall pay to the *Board* (l) a reasonable charge for the attendance of the fire brigade, and the use of their engines, escapes, and other implements. In case of difference between the *Board* (l) and the owner and occupier of such property, or either of them, the amount of the expenses, as well as the propriety of the fire brigade attending such fire (if the propriety thereof be disputed), shall be summarily determined by two justices. In default of payment, any expenses under this section may be recovered by the *Board* (l) in a summary manner.

The *Board* (l) may also permit any part of the fire brigade establishment to be employed on special services upon such terms of remuneration as the said *Board* may think just.

31. The Metropolitan Fire Brigade shall in the morning of each day, with the exception of Sundays, send information, by post or otherwise, to all the insurance offices contributing for the purposes of this Act, of all fires which have taken place within the Metropolis since the preceding return, in such form as may be agreed upon between the *Board* (l) and the said companies.

32. All the powers now exercised by any local body or officer within the Metropolis as respects fireplugs shall henceforth be exercised by the *Board*, and the *Board* (l) shall be entitled to receive copies or extracts of all plans kept by any water company under the provision of the Metropolis Water Act, 1852; and every such water company shall provide at the expense of the *Board* (l) in any mains or pipes within the Metropolis plugs for the supply of water in case of fire at such places, of such dimensions, and in such form as the *Board* (l) may require, and the fire brigade shall be at liberty to make such use thereof as they may deem necessary for the purpose of extinguishing any fire; and every such company shall deposit keys of all their fireplugs at such places as may be appointed by the *Board*, and the *Board* (l) may put up on any house or building a public notice in some conspicuous place in each street in which a fireplug is situated, showing its situation (m).

33. "Owner" in this Act shall mean the person for the time being receiving the rackrent of the premises in connexion with which the word is used, either on his own account or as agent or trustee for some other person, or who would receive the same if the premises were let at rackrent (n).

34. [Rep. by 38 & 39 Vict. c. 66. *Statute Law Revision*.]

35. [Rep. by 56 Vict. c. 14. *Statute Law Revision*.]

(l) *Met. Bd. Wks.*—See note (g) on page 874.

(m) *Fireplugs.*—This section operates subject to the provisions of the Metropolis Water Act, 1871, sec. 34. See also the Waterworks Clauses Act, 1847, secs. 38 to 43, *post*, tit. "Water."

(n) *Owner.*—See the definition of owner in sec. 250 of the Met. Man. Act, 1855, and cases cited in note thereto, *ante*, vol. i.

28 & 29 Vict.  
c. 90.

Brigade when  
employed  
beyond the  
Metropolis, or  
on special  
services.

Board to send  
information of  
fires to offices.

Transfer to  
County Council  
of powers of  
parishes as to  
fireplugs.

15 & 16 Vict.  
c. 84.

Definition of  
"owner."

## FOOD AND DRUGS.

|                                                                           |          |
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## SALE OF FOOD AND DRUGS ACT, 1875.

**38 & 39 Vict. c. 63.** An Act to make better provision for the Sale of Food and Drugs in a pure state. [11th August, 1875]

1. [*Rep. by 46 & 47 Vict. c. 39. Statute Law Revision.*]

Interpretation  
of words.

2. The term "food" shall include every article used for food or drink by man (a), other than drugs or water :

The term "drug" (b) shall include medicine for internal or external use :

The term "county" shall include every county, riding, and division, as well as every county of a city or town not being a borough :

The term "justices" shall include any police and stipendiary magistrate invested with the powers of a justice of the peace in England, and any divisional justices in Ireland.

*Description of Offences.*

Prohibition of  
the mixing of  
injurious  
ingredients,  
and of selling  
the same.

3. No person shall mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder, any article of food with an ingredient or material so as to render the article injurious to health (c), with intent that the same may be sold in that state, and no person shall sell any such article so mixed, coloured, stained, or powdered, under a penalty in each case not exceeding fifty pounds for the first offence; every offence, after a conviction for a first offence, shall be a misdemeanour, for which the person, on conviction, shall be imprisoned for a period not exceeding six months with hard labour.

Prohibition of  
the mixing of  
drugs with  
injurious  
ingredient, and  
of selling the  
same.

4. No person shall, except for the purpose of compounding as hereinafter described, mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder, any drug with any ingredient or material so as to affect injuriously the quality or potency of such drug, with intent that the same may be sold in that state, and no person shall sell any such drug so mixed, coloured, stained, or powdered, under the same penalty in each case respectively as in the preceeding section for a first and subsequent offence.

Exemption in  
case of proof of  
absence of  
knowledge.

5. Provided that no person shall be liable to be convicted under either of the two last foregoing sections of this Act in respect of the sale of any article of food, or of any drug, if he shows to the satisfaction of the justice or court before whom he is charged that he did not know of the article of food or drug sold by him being so mixed, coloured, stained, or powdered as in either of those sections mentioned, and that he could not with reasonable diligence have obtained that knowledge.

(a) **Food.**—Baking powder is not an article of food within the Act. "Food" comprises articles intended to form substantial components of articles of food, or to be eaten as adjuncts thereto. *James v. Jones* (1894), 1 Q. B. 304; 63 L. J. M. C. 41. Chewing gum, labelled "Cloves for chewing only, not to be eaten," is not food within the meaning of the Act. *Shortt v. Smith*, 59 J. P. 213.

(b) **Drug.**—Beeswax, sold by a grocer, was held not to be a drug within the meaning of the Act. *Fowle v. Fowle*, 60 J. P. 75; 75 L. T. (N.S.) 514. But *quære* whether it might not be a drug if sold by a chemist? *Id.*

(c) **Injurious to health.**—At the South London Sessions a bottle of peas in which three grains of sulphate of copper had been inserted for the purpose of preserving the natural colour of the peas was held to be injurious to health. *Summers v. Grist*, 60 J. P. 346.



6. No person (*d*) shall sell to the prejudice of the purchaser (*e*) any article of food or any drug (*f*) which is not of the nature, substance, and quality of the article demanded by such purchaser (*g*), under a penalty not exceeding twenty pounds (*h*); provided that an offence shall not be deemed to be committed under this section in the following cases; that is to say—

(1) Where any matter or ingredient not injurious to health has been added to the food or drug because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption and not fraudulently to increase the bulk, weight, or measure (*i*) of the food or drug, or conceal the inferior quality thereof;

(*d*) **No person.**—The servant of a dairy company who sold milk containing added water was held to have been properly convicted. *Hotchin v. Hindmarsh* (1891), 2 Q. B. 181; 60 L. J. M. C. 146. Where the servants of the appellants sold adulterated lard, without a proper label indicating its character, contrary to express instructions, the appellants were held not to be liable. *Kearley v. Tonge or Todd*, 60 L. J. M. C. 159; 56 J. P. 72. But where a servant sold milk, which he admitted he had adulterated without the knowledge of his master, his master was held to be liable. *Brown v. Foot*, 61 L. J. M. C. 110; 56 J. P. 581.

(*e*) **To prejudice of purchaser.**—It is no defence to allege that the purchaser, having bought only for analysis, was not prejudiced by the sale. Sale of Food and Drugs Act, 1879, sec. 1, *post*. Therefore a sale to a sanitary inspector for the purpose of analysis is within the Act. *Hoyle v. Hitchman*, 4 Q. B. D. 233; 48 L. J. C. 97. Or to his assistant, servant, or agent, acting on his behalf. *Horder v. Scott*, 5 Q. B. D. 552; 49 L. J. M. C. 78; *Stace v. Smith*, 45 J. P. 141; *Garforth v. Esam*, 56 J. P. 521; *Collett v. Walker*, 64 L. J. M. C. 267; 59 J. P. 600.

When the seller brings to the purchaser's knowledge the fact that the article sold to him is not of the nature, &c. demanded, the sale is not to the prejudice of the purchaser (*Sandys v. Small*, 3 Q. B. D. 449; 47 L. J. M. C. 115), notwithstanding a prior false representation, provided a true one is made at the time of actual sale. *Kirk v. Coates*, 16 Q. B. D. 49; 55 L. J. M. C. 182. See also cases cited in note (*k*) to sec. 8, *post*.

(*f*) **Food or drug.**—See sec. 2, *ante*, and notes thereto, for the meaning of these terms.

(*g*) **Not of nature, &c. demanded.**—An offence within this section is committed, even though the seller does not know that the article sold is not of the nature, substance, and quality demanded. *Betts v. Armstead*, 20 Q. B. D. 771; 57 L. J. M. C. 100. See also *Brown v. Foot*, *supra*, and *Pain v. Boughtwood and Spiers and Pond v. Bennett*, *infra*.

This section is not limited in its application to sales of adulterated articles, but it applies also to cases in which the article sold is unadulterated, but wholly different from that demanded by the purchaser, *e.g.*, where saffron is delivered for saffron. *Knight v. Bower*, 14 Q. B. D. 845; 54 L. J. M. C. 108.

Tea, painted and faced with gypsum and Prussian blue, was sold as genuine green tea. The tea was imported from China painted and faced in this manner, and, though the practice is not known to the public, it is known in the trade as green tea. Pure green tea is imported from Japan. *Held*, that the seller was rightly convicted. *Roberts v. Egerton*, L. R. 9 Q. B. 494; 43 L. J. M. C. 135. Where a drug sold as tincture of opium was not equal to the standard prescribed by the British Pharmacopœia it was held that the seller was liable to conviction, although the purchaser did not specifically ask for tincture of opium prepared according to the recipe in the British Pharmacopœia. *White v. Bywater*, 19 Q. B. D. 582; 51 J. P. 340. Where an article labelled "Valleyfield finest oleine cheese" was sold as cheese, but no label was delivered to the purchaser notifying that it was a mixture, and on analysis it was found to contain seventy per cent. of fat other than milk fat, the seller was held to have been rightly convicted. *Collett v. Walker*, 64 L. J. M. C. 267; 59 J. P. 600. Where an inspector asked for milk, and was supplied with milk which had been skimmed, it was held that no offence had been committed against this section. *Lane v. Collins*, 14 Q. B. D. 193; 54 L. J. M. C. 76. But *quære* whether there was not an offence under sec. 9, *post, ib.*

(*h*) **Penalty.**—As to the recovery of this penalty, and the form and return of the summons, see sec. 20, *post*, and the Sale of Food and Drugs Act, 1879, sec. 10, and cases cited in note thereto, *post*.

(*i*) **Fraudulently increase bulk, &c.**—A purchaser asked for half a pound of coffee, and was supplied with an article which was put in a parcel bearing a label with the words "This is a mixture of coffee and chicory." On analysis there was found to be only 60 per cent. of coffee. The justices found that the chicory was added fraudulently to increase the bulk, and convicted. *Held*, that, on finding fraud, the justices were right. *Liddiard v. Reece*, 44 J. P. 233. In a similar case, where the magistrate dismissed the information, but did not find whether the mixture was made fraudulently to increase the bulk, the court held that the magistrate was bound to find that fact,

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Prohibition of  
the sale of  
articles of food  
and of drugs  
not of the  
proper nature,  
substance, and  
quality.

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Provision for  
the sale of  
compounded  
articles of food  
and com-  
pounded drugs.

Protection from  
offences by  
giving of label.

Prohibition of  
the abstraction  
of any part of  
an article of  
food before sale,  
and selling  
without notice.

- (2) Where the drug or food is a proprietary medicine, or is the subject of a patent in force, and is supplied in the state required by the specification of the patent;
- (3) Where the food or drug is compounded as in this Act mentioned;
- (4) Where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation.

7. No person shall sell any compound article of food or compounded drug which is not composed of ingredients in accordance with the demand of the purchaser, under a penalty not exceeding twenty pounds.

8. Provided that no person shall be guilty of any such offence as aforesaid in respect of the sale of an article of food or a drug mixed with any matter or ingredient not injurious to health, and not intended fraudulently to increase its bulk, weight, or measure, or conceal its inferior quality, if at the time of delivering such article or drug he shall supply to the person receiving the same a notice, by a label distinctly and legibly written or printed on or with the article or drug, to the effect that the same is mixed (*k*).

9. No person shall, with the intent that the same may be sold in its altered state without notice, abstract from an article of food any part of it so as to affect injuriously its quality, substance, or nature, and no person shall sell any article so altered without making disclosure of the alteration (*l*), under a penalty in each case (*m*) not exceeding twenty pounds.

and if affirmatively he ought to convict, though the defendant might have sold the article as he purchased it. *Horder v. Meddings*, 44 J. P. 234. Where the seller sold "French coffee," the label stating that it was mixed with chicory, and on analysis there was found to be sixty per cent. of chicory, it was held that there was no evidence to support a conviction on the ground that as the proportion of chicory was not stated it must have been added fraudulently to increase the bulk. *Otter v. Edgley*, 57 J. P. 457. See also *Jones v. Jones*, *infra*. A purchaser asked for cocoa, and received a packet of adulterated cocoa. There was no evidence for the defence, but the magistrates, acting on their own knowledge, and as a matter of common knowledge, that cocoa as an article of commerce always contained a proportion of other ingredients, and being satisfied that there was no fraud, dismissed the case under sec. 16 of the Summary Jurisdiction Act, 1879. *Held*, that the magistrates were right. *Reg. v. Field, Ex parte White*, 64 L. J. M. C. 158; 11 T. L. R. 240.

(*k*) **Notice to purchaser.**—The above section points out a mode of giving notice to the purchaser that is made by the statute sufficient, but it is not intended by that section that whenever the mode therein specified is not adopted there shall necessarily be a conviction under sec. 6. *Sandys v. Small*, *ante*. Where the seller sold mustard admixed with flour and turmeric, declaring that he did not sell the article as pure mustard, it was held that he had been guilty of no offence under the repealed Act (35 & 36 Vict. c. 74), and that it was not necessary that he should declare the nature and proportion of the substances admixed. *Pope v. Tearle*, L. R. 9 C. P. 499; 43 L. J. M. C. 129. See also *Otter v. Edgley*, *ante*. Where an article contained in tins labelled "coffee and chicory" was stated by the seller to be sold as a mixture, and was found to contain about 70 per cent. of chicory, it was held that no offence had been committed. *Higgins v. Hall*, 51 J. P. 293. A purchaser went into the club room of a public house and asked for whisky, which was supplied to him 37 degrees under proof. A notice that "All spirits sold are diluted" was stuck up in the bar, but not in the club room, and nothing was said to the purchaser on delivery. *Held*, that the justices ought to have inquired whether the purchaser knew that the practice at the house was to sell only diluted spirits, as, if he did, no conviction was proper. *Morris v. Johnson*, 54 J. P. 612. See also *Gage v. Elsey*, *post*, p. 886.

Cocoa was sold in a packet on which was a label in small print stating that the cocoa was mixed. The packet was delivered to the purchaser in opaque paper, and was found to contain 70 per cent. of starch. *Held*, that the quarter sessions were wrong in holding that the label did not comply with the above section, and in holding that the mixture was made for fraudulent purposes. *Jones v. Jones*, 58 J. P. 653.

A label is no protection to the seller where an ingredient is added with the fraudulent intent to increase the bulk, &c. *Liddiard v. Reece* and *Horder v. Meddings*, *supra*.

(*l*) **Without disclosure.**—It is not necessary to show a *mens rea* on the part of the seller. It is sufficient to show that the article of food has been altered by the abstraction of some part of it, and sold in its altered state without notice. *Pain v. Boughtwood*, 24 Q. B. D. 353; 59 L. J. M. C. 45; *Dyke v. Gower* (1892), 1 Q. B. 220; 61 L. J. M. C. 70. *Spiers and Pond v. Bennett*, *infra*.

Where on a label on a tin "Condensed milk" was printed, and on another part of

*Appointment and Duties of Analysts, and Proceedings to obtain Analysis.*38 & 39 Vict.  
c. 63.Appointment  
of analysts.

10. In the City of London and the liberties thereof the Commissioners of Sewers of the City of London and the liberties thereof, and in all other parts of the Metropolis the vestries and district boards acting in execution of the Act for the better local management of the Metropolis, the *court of quarter sessions* (n) of every county, and the town council of every borough having a separate court of quarter sessions, or having under any general or local Act of Parliament or otherwise a separate police establishment, may, as soon as convenient after the passing of this Act, where no appointment has been hitherto made, and in all cases as and when vacancies in the office occur, or when required so to do by the Local Government Board, shall, for their respective city, districts, counties, or boroughs, appoint one or more persons possessing competent knowledge, skill, and experience, as analysts of all articles of food and drugs sold within the said City, metropolitan districts, counties, or boroughs, and shall pay to such analysts such remuneration as shall be mutually agreed upon, and may remove him or them as they shall deem proper; but such appointments and removals shall at all times be subject to the approval of the Local Government Board, who may require satisfactory proof of competency to be supplied to them, and may give their approval absolutely or with modifications as to the period of the appointment and removal, or otherwise: Provided that no person shall hereafter be appointed an analyst for any place under this section who shall be engaged directly or indirectly in any trade or business connected with the sale of food or drugs in such place.

In Scotland . . .

In Ireland . . .

11. [Town council of a borough may engage the analyst of another borough or of the county.]

12. Any purchaser of an article of food or of a drug in any place being a district, county, city, or borough where there is any analyst appointed under this or any Act hereby repealed shall be entitled, on payment to such analyst of a sum not exceeding ten shillings and sixpence, or if there be no such analyst then acting for such place, to the analyst of another place, of such sum as may be agreed upon between such person and the analyst, to have such article analysed by such analyst, and to receive from him a certificate of the result of his analysis.

Power to  
purchaser of  
an article of  
food to have it  
analysed.

13. Any medical officer of health, inspector of nuisances (o), or inspector of weights and measures, or any inspector of a market or any police constable

Officer named  
to obtain a  
sample of food  
or drug to sub-  
mit to analyst.

the label, in smaller print, it stated that "This tin contains skimmed milk," it was held that there was a sufficient disclosure. *Jones v. Davies*, 57 J. P. 808; 69 L. T. (N. S.) 497; *Platt v. Tyler*, 58 J. P. 71. See also *Lane v. Collins, ante*. Where, in a refreshment room, milk was sold in a glass on which were engraved the words "Not guaranteed as new or pure milk, or with all its cream, see notice," and there was a notice that the sellers did not guarantee the milk as new, pure, or with all its cream, and did not therefore sell it as such, it was held that there had been a sufficient disclosure. *Spiers and Pond v. Bennett* (1896), 1 Q. B. 65; 65 L. J. M. C. 144.

A milk seller contracted to supply milk to contain a certain percentage of cream. It was to be tested on each delivery, and a reduction was to be made in the price in respect of any deficiency in cream. There was found to be a large deficiency in two samples taken by an inspector at the time of delivery. *Held*, that the provisions in the contract as to deficiency in cream were immaterial in the determination of the question whether the seller had committed an offence under the Act. *Fecitt v. Walsh, infra*.

(m) *In each case*.—Where a contractor was delivering five cans of milk, and an inspector procured a sample from each can, and there was found to be a large deficiency in two of the samples, it was held that the procuring of each sample was a separate transaction, that two separate informations were properly laid, and that the contractor was properly convicted on each. *Fecitt v. Walsh* (1891), 2 Q. B. 304; 60 L. J. M. C. 143.

(n) *Court of quarter sessions*.—Now the county council. Loc. Govt. Act, 1888, sec. 3 (x), *ante*, vol. i. But, as the justices at quarter sessions had no jurisdiction under the Act within the Metropolis, no powers under the Act passed to the London County Council.

(o) *Inspector of nuisances*.—Now called a "sanitary inspector" in London. Pub. Hlth. (London) Act, 1891, sec. 139 (1) (d), *ante*, vol. i.



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under the direction (*p*) and at the cost of the local authority appointing such officer, inspector, or constable, or charged with the execution of this Act, may procure any sample of food or drugs, and if he suspect the same to have been sold to him contrary to any provision of this Act, shall submit the same to be analysed by the analyst of the district or place for which he acts, or if there be no such analyst then acting for such place to the analyst of another place, and such analyst shall upon receiving payment as is provided in the last section, with all convenient speed analyse the same and give a certificate to such officer, wherein he shall specify the result of the analysis.

Provision for  
dealing with  
the sample  
when  
purchased.

14. The person purchasing any article with the intention of submitting the same to analysis shall, after the purchase shall have been completed, forthwith notify to the seller or his agent selling the article his intention to have the same analysed by the public analyst (*q*), and shall offer to divide the article into three parts (*r*) to be then and there separated, and each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall, if required to do so, proceed accordingly, and shall deliver one of the parts to the seller or his agent.

He shall afterwards retain one of the said parts for future comparison and submit the third part, if he deems it right to have the article analysed, to the analyst (*s*).

Provision when  
sample is not  
divided.

15. If the seller or his agent do not accept the offer of the purchaser to divide the article purchased in his presence, the analyst receiving the article for analysis shall divide the same into two parts, and shall seal or fasten up one of those parts, and shall cause it to be delivered, either upon receipt of the sample or when he supplies his certificate to the purchaser, who shall retain the same for production in case proceedings shall afterwards be taken in the matter.

Provision for  
sending article  
to the analyst  
through the  
post office.

16. If the analyst do not reside within two miles of the residence of the person requiring the article to be analysed, such article may be forwarded to the analyst

(*p*) **Under direction of local authority.**—Where a police constable prosecutes it is not necessary for him to prove, as a condition precedent, that he was directed to prosecute by the local authority appointing him. *Hale v. Cole*, 55 J. P. 376. When procuring a sample an inspector is not bound to produce his authority unless it is demanded. *Payne v. Hack*, *infra*.

(*q*) **Notification to seller.**—A constable went into an inn, bought some spirits, and took them out to an inspector, on whose instructions he was acting. They then went into the inn and informed the innkeeper that the spirits were bought for analysis. *Held*, that the object of the purchase had been notified “forthwith.” *Somerset v. Miller*, 54 J. P. 614.

On a purchase by an inspector it is a condition precedent to a conviction that he should notify to the seller his intention to have the article analysed by the public analyst. It is not enough to say that he has purchased the article for analysis. *Barnes v. Chipp*, 3 Ex. D. 176; 47 L. J. M. C. 85. The notification cannot be dispensed with, although there be a contemporaneous admission by the seller of an offence against the Act. *Smart v. Watts* (1895), 1 Q. B. 219; 64 L. J. M. C. 89. Where the purchaser informed the seller that the article was to be analysed by the “county analyst,” and the seller knew that the county analyst was the public analyst of the place, it was held that the notification was sufficient. *Whecker v. Webb*, 51 J. P. 661.

Where a sample of milk is procured in course of delivery under sec. 3 of the Sale of Food and Drugs Amend. Act, 1879, *post*, the notification prescribed by the above section is not necessary. *Rouch v. Hall*, 6 Q. B. D. 17; 50 L. J. M. C. 6. Nor is such notification a condition precedent to a prosecution where the article is purchased by a private person, not for test purposes, nor with the intention of submitting it to analysis. *Buckler v. Wilson* (1896), 1 Q. B. 83; 65 L. J. M. C. 18; disapproving *Parsons v. Birmingham Dairy Co.*, 9 Q. B. D. 172; 51 L. J. M. C. 111; and approving *Ennis-killen Union (Guardians of) v. Hilliard*, 14 L. R. Ir. 214 Ex. D.

(*r*) **Offer to divide.**—Where the purchaser of milk informed the seller that he intended to have it analysed, and offered to divide it into three parts, and the seller refused, it was held that it was not necessary to make the offer in so many words, and that there had been a substantial compliance with the above section. *Chappell v. Emson*, 48 J. P. 200. Where milk is procured in course of delivery under sec. 3 of the Sale of Food and Drugs Act, 1879, *post*, an offer to divide is not a condition precedent to a prosecution. *Rouch v. Hall*, *supra*.

(*s*) **Analysis.**—An analysis of the article is a condition precedent to a prosecution. *Smart v. Watts*, *supra*.

through the post office as a registered *letter* (*t*), subject to any regulations which the Postmaster-General may make in reference to the carrying and delivery of such article, and the charge for the postage of such article shall be deemed one of the charges of this Act or of the prosecution, as the case may be.

17. If any such officer, inspector, or constable, as above described, shall apply to purchase any article of food or any drug exposed to sale (*u*), or on sale by retail on any premises or in any shop or stores, and shall tender the price for the quantity which he shall require for the purpose of analysis, not being more than shall be reasonably requisite, and the person exposing the same for sale shall refuse to sell the same (*x*) to such officer, inspector, or constable, such person shall be liable to a penalty not exceeding ten pounds.

18. The certificate of the analysis shall be in the form set forth in the schedule hereto, or to the like effect.

19. Every analyst appointed under any Act hereby repealed or this Act shall report quarterly to the authority appointing him the number of articles analysed by him under this Act during the foregoing quarter, and shall specify the result of each analysis and the sum paid to him in respect thereof, and such report shall be presented at the next meeting of the authority appointing such analyst, and every such authority shall annually transmit to the Local Government Board, at such time and in such form as the Board shall direct, a certified copy of such quarterly report.

*Proceedings against Offenders.*

20. When the analyst having analysed any article shall have given his certificate of the result, from which it may appear that an offence against some one of the provisions of this Act has been committed, the person causing the analysis to be made may take proceedings for the recovery of the penalty herein imposed for such offence, before any justices in petty sessions assembled having jurisdiction in the place where the article or drug sold was actually delivered to the purchaser (*y*), in a summary manner.

Every penalty imposed by this Act shall be recovered in England in the manner prescribed by the Summary Jurisdiction Act, 1848 (*z*). In Ireland . . .

Every penalty herein imposed may be reduced or mitigated according to the judgment of the justices.

21. At the hearing of the information in such proceeding the production of the certificate of the analyst shall be sufficient evidence of the facts therein stated (*a*), unless the defendant shall require that the analyst shall be called as a

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Person refusing to sell any article to any officer liable to penalty.

Form of the certificate.

Quarterly report of the analyst.

Proceedings against offenders.

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Certificate of analyst *prima facie* evidence for the prosecution, but analyst to be called if required.

(*t*) **Registered letter.**—The words “registered parcel” are substituted for “registered letter” by the Post Office Act, 1891 (54 & 55 Vict. c. 46), sec 11.

(*u*) **Exposed for sale.**—This section applies to articles of food, &c. exposed for sale by wholesale as well as by retail. *M'Hugh v. M'Grath* (1894), 2 Ir. R. 78 Q. B. D.

(*x*) **Refuse to sell the same.**—A publican, on request, supplied rum out of a bottle to an inspector, who asked for another half pint of the rum out of the same bottle, and was refused. *Held*, that the publican was bound to supply the sample from the same bottle. *Payne v. Hack*, 58 J. P. 165.

(*y*) **Having jurisdiction.**—Where a person sold and delivered milk, with a warranty, to a dairy company outside the limits of the jurisdiction of the Clerkenwell police court, and an inspector procured a sample of the milk in the course of its delivery by the dairy company within those limits, it was held that the magistrate sitting at that court had no jurisdiction to hear an information against the person who sold the milk to the dairy company charging him with having given a false warranty. *Reg. v. Smith* (1896), 1 Q. B. 596; 65 L. J. M. C. 104.

(*z*) **Summary Jurisdiction Act, 1848.**—For the time and manner of proceeding under that Act, see note to sec. 227 of the Met. Man. Act, 1855, *ante*, vol. i. And for special provisions as to the time for proceedings, and the form and return of the summons under the present Act, see the Sale of Food and Drugs Amend. Act, 1879, sec. 10, *post*.

(*a*) **Analyst's certificate sufficient evidence.**—Where the analyst's certificate, after stating the constituent parts, said the milk was diluted with 20 per cent. of water, it was held that, in the absence of evidence to contradict it, the magistrate was bound to act upon the certificate and convict. *Harrison v. Richards*, 45 J. P. 552. But where the only evidence of adulteration was the certificate of the public analyst, which stated that the sample “contained the percentage of foreign ingredients as under: 5 per cent. of added water,” it was held that the certificate was bad as

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Defendant and  
his wife may be  
examined.

Power to  
justices to have  
articles of food  
and drug  
analysed.

Appeal to  
quarter  
sessions.

In any prose-  
cution defend-  
ant to prove  
that he is  
protected by  
exception or  
provision.

Defendant to  
be discharged  
if he prove that  
he bought the  
article in the  
same state as  
sold, and  
with a  
warranty.

witness, and the parts of the articles retained by the person who purchased the article shall be produced, and the defendant may, if he think fit, tender himself and his wife to be examined on his behalf, and he or she shall, if he so desire, be examined accordingly.

**22.** The justices before whom any complaint may be made, or the court before whom any appeal may be heard, under this Act may, upon the request of either party, in their discretion cause any article of food or drug to be sent to the Commissioners of Inland Revenue, who shall thereupon direct the chemical officers of their department at Somerset House to make the analysis, and give a certificate to such justices of the result of the analysis; and the expense of such analysis shall be paid by the complainant or the defendant as the justices may by order direct.

**23.** Any person who has been convicted of any offence punishable by any Act hereby repealed or by this Act by any justices may appeal in England to the next general or quarter sessions of the peace (*b*) . . .

In Ireland . . .

**24.** In any prosecution under this Act, where the fact of an article having been sold in a mixed state has been proved, if the defendant shall desire to rely upon any exception or provision contained in this Act it shall be incumbent upon him to prove the same.

**25.** If the defendant in any prosecution under this Act prove to the satisfaction of the justices or court that he had purchased the article in question as the same in nature, substance, and quality as that demanded of him by the prosecutor, and with a written warranty to that effect (*c*), that he had no reason to believe at the

evidence, because it did not state the constituent parts of the sample analysed. *Fortune v. Hanson* (1896), 1 Q. B. 202; 65 L. J. M. C. 71. This case was distinguished in *Bridge v. Howard* (1897), 1 Q. B. 80; 65 L. J. M. C. 229; where the certificate of a public analyst to the effect that the sample contained "milk, 94 per cent. : added water, 6 per cent.," followed by the statement that "this opinion is based on the fact that the sample contained 7.97 per cent. of solids not fat, whereas genuine milk contains not less than 8.5 per cent. solids not fat," was held to be sufficient, and admissible in evidence.

The production of the analyst's certificate is not conclusive evidence if the defendant gives evidence on his own behalf. *Hewitt v. Taylor* (1896), 1 Q. B. 287; 65 L. J. M. C. 68.

(*b*) **Appeal to sessions.**—The remainder of this paragraph is repealed by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 4. As to the time and manner of appealing to quarter sessions, see note to sec. 227 of the Met. Man. Act, 1855, *ante*, vol. i.

(*c*) **Written warranty.**—The words "warranted pure" stamped on skins containing lard were held not to be a sufficient warranty. *Elder v. Smithson*, 57 J. P. 809. But a label on a cask of vinegar bearing the words "Vinegar. Warranted unadulterated," and also the name and address of the vendor, was held to be a written warranty within the section. *Lindsay v. Rook*, 63 L. J. M. C. 231; 58 J. P. 735. Where a contract contained a clause that "the vendor hereby warrants each and every supply of milk delivered or in course of delivery, or to be delivered by him under this contract, to be pure, genuine, and new milk, unadulterated, and with all its cream on"; and the milk was delivered in cans, to each of which was attached a label bearing the words, "Warranted genuine new milk with all its cream on," it was held that there was a sufficient warranty. *Farmers' Dairy Co. v. Stevenson*, 60 L. J. M. C. 70; 63 L. T. (N. S.) 776.

An invoice describing an article as "lard" is not a written warranty within the section. *Rook v. Hopley*, 3 Ex. D. 209; 47 L. J. M. C. 118. But where the seller received an invoice of butter from the importer bearing the words "Guaranteed pure" he was held to have brought himself within the section. *Harkins v. Williams*, 59 J. P. 333; 11 T. L. R. 425.

A written contract to sell "86 gallons of good and pure milk each day for six months" was held not to constitute a written warranty within the section in respect of the specific article sold by the seller. *Harris v. May*, 12 Q. B. D. 97; 53 L. J. M. C. 39. This case was distinguished in *Laidlaw v. Willson* (1894), 1 Q. B. 74; 63 L. J. M. C. 35: where it was held that the words "warrant" or "warranty" need not be used, and that it was a sufficient defence to prove a written statement that amounts to a warranty in law. This last case, again, was distinguished in *Jorns v. Van Tromp*, 64 L. J. M. C. 171; 59 J. P. 246, in which it was held that the written warranty required under this section must form part of the contract under which the article is purchased—that a label of the manufacturer, but not of the wholesale dealer from



time when he sold it that the article was otherwise (*d*), and that he sold it in the same state as when he purchased it (*e*), he shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor, unless he shall have given due notice to him that he will rely on the above defence.

**26.** Every penalty imposed and recovered under this Act shall be paid in the case of a prosecution by an officer, inspector, or constable of the authority who shall have appointed an analyst or agreed to the acting of an analyst within their district, to such officer, inspector, or constable, and shall be by him paid to the authority for whom he acts, and be applied towards the expenses of executing this Act, any statute to the contrary notwithstanding (*f*); but in the case of any other prosecution the same shall be paid and applied in England according to the law regulating the application of penalties for offences punishable in a summary manner, and in Ireland in the manner directed by the Fines Act, Ireland, 1851, and the Acts amending the same.

**27.** Any person who shall forge, or shall utter, knowing it to be forged for the purposes of this Act, any certificate or any writing purporting to contain a warranty, shall be guilty of a misdemeanour and be punishable on conviction by imprisonment for a term of not exceeding two years with hard labour (*g*);

Every person who shall wilfully apply to an article of food, or a drug, in any proceedings under this Act, a certificate or warranty given in relation to any other article or drug, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding twenty pounds (*g*);

Every person who shall give a false warranty (*h*) in writing to any purchaser in respect of an article of food or a drug sold by him as principal or agent, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding twenty pounds (*g*);

And every person who shall wilfully give a label with any article sold by him which shall falsely describe the article sold, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding twenty pounds (*g*).

**28.** Nothing in this Act contained shall affect the power of proceeding by indictment, or take away any other remedy against any offender under this Act, or in any way interfere with contracts and bargains between individuals, and the rights and remedies belonging thereto.

Provided that in any action brought by any person for a breach of contract on the sale of any article of food or of any drug, such person may recover alone or in addition to any other damages recoverable by him the amount of any penalty in which he may have been convicted under this Act, together with the costs paid by him upon such conviction and those incurred by him in and about his defence thereto, if he prove that the article or drug the subject of such conviction was sold to him as and for an article or drug of the same nature, substance, and quality as that which was demanded of him, and that he

whom the seller purchased the article, does not constitute a warranty, and that the invoice was not admissible as evidence of warranty.

(*d*) **No reason to believe article was otherwise.**—The defendant, in order to avail himself of this section, must establish that at the time he sold the article he had no reason to believe that its quality was otherwise than as demanded of him by the purchaser. *Hotchin v. Hindmarsh* (1891), 2 Q. B. 181; 60 L. J. M. C. 146.

(*e*) **Same state as purchased.**—In order to bring himself within the protection of this section the defendant must prove that the article, when he sold it, was in the same state as when he purchased it. *Jones v. Bertram*, 58 J. P. 478.

(*f*) **Application of penalties.**—A penalty recovered on a prosecution under this Act before a metropolitan magistrate by an inspector of a local authority must be paid to such inspector, and not to the Receiver of the Metropolitan Police District, notwithstanding sec. 47 of the Metropolitan Police Courts Act, 1839 (2 & 3 Vict. c. 71). *Reg. v. Titterton, Ex parte Quelch* (1895), 2 Q. B. 61; 64 L. J. M. C. 202. Sec. 47 of that Act enacts that penalties and forfeitures recoverable in a summary manner, and limited and made payable to Her Majesty, or any body corporate, or to any person whomsoever, save the informer, &c., shall, in the metropolitan police district, be recovered for and adjudged to be paid to the Receiver of the Metropolitan Police District. See also *Wray v. Ellis*, 1 E. & E. 276; 28 L. J. M. C. 45.

(*g*) **Punishment and penalties.**—As to the time and manner of taking proceedings, see sec. 20, *ante*, and sec. 10 of the amending Act, 1879, *post*.

(*h*) **False warranty**, i.e., knowingly false. *Derbyshire v. Houlstan* (1897), 1 Q. B. 772; 13 T. L. R. 377.

38 & 39 Vict.  
c. 63.

No costs except on issues proved against him.  
Application of penalties.

Punishment for forging certificate or warranty;  
for wilful misapplication of warranty;

for false warranty;

for false label.

Proceedings by indictment and contracts not to be affected.

38 & 39 Vict.  
c. 63.

purchased it not knowing it to be otherwise, and afterwards sold it in the same state in which he purchased it; the defendant in such action being nevertheless at liberty to prove that the conviction was wrongful, or that the amount of costs awarded or claimed was unreasonable.

*Expenses of executing the Act.*

Expenses of  
executing Act.

29. The expenses of executing this Act shall be borne, in the City of London and the liberties thereof, by the consolidated rates raised by the Commissioners of Sewers of the City of London and the liberties thereof, and in the rest of the Metropolis by any rates or funds applicable to the purposes of the Act for the better local management of the Metropolis . . .

*Special Provisions as to Tea.*

Tea to be  
examined by  
the Customs  
on importation.

30. All tea imported as merchandise into and landed at any port in Great Britain or Ireland shall be subject to examination by persons to be appointed by the Commissioners of Customs, subject to the approval of the Treasury, for the inspection and analysis thereof, for which purpose samples may, when deemed necessary by such inspectors, be taken and with all convenient speed be examined by the analysts to be so appointed; and if upon such analysis the same shall be found to be mixed with other substances or exhausted tea, the same shall not be delivered unless with the sanction of the said commissioners, and on such terms and conditions as they shall see fit to direct, either for home consumption or for use as ship's stores or for exportation; but if on such inspection and analysis it shall appear that such tea is in the opinion of the analyst unfit for human food, the same shall be forfeited and destroyed or otherwise disposed of in such manner as the said commissioners may direct.

Interpretation  
of Act.

31. Tea to which the term "exhausted" is applied in this Act shall mean and include any tea which has been deprived of its proper quality, strength, or virtue by steeping, infusion, decoction, or other means.

Provision for  
the liberty of a  
cinque port.

32. For the purposes of this Act every liberty of a cinque port not comprised within the jurisdiction of a borough shall be part of the county in which it is situated, and subject to the jurisdiction of the justices of such county.

33. [*Application of Act to Scotland.*]

34. [*Application of Act to Ireland.*]

35. [*Rep. by 56 & 57 Vict. c. 54. Statute Law Revision.*]

Title of the  
Act.

36. This Act may be cited as "The Sale of Food and Drugs Act, 1875."

SCHEDULE.

FORM OF CERTIFICATE (h).

To\*

I, the undersigned, public analyst for the  
do hereby certify that I received on the \_\_\_\_\_ day of  
18 \_\_, from† \_\_\_\_\_, a sample of  
for analysis (which when weighed‡ \_\_\_\_\_), and have analysed the same,  
and declare the result of my analysis to be as follows:—

I am of opinion that the same is a sample of genuine

or,

I am of opinion that the said sample contained the parts as under, or the percentages of foreign ingredients as under.

(h) *Certificate*.—Where adulteration is not charged, the certificate should specify the result only of the analysis, the words "I am of opinion that the said same contained the parts as under" relating only to cases of adulteration. The heading "Observations" also relates to cases of adulteration only; but the addition in other cases of "observations" which ought not to be there does not necessarily invalidate the certificate. *Bahewell v. Davis* (1894), 1 Q. B. 296; 63 L. J. M. C. 93.

See also *Fortune v. Hanson* and *Bridge v. Howard*, ante, p. 882.

As witness my hand this                      day of  
A.B.,  
at

\* Here insert the name of the person submitting the article for analysis.

† Here insert the name of the person delivering the sample.

‡ When the article cannot be conveniently weighed, this passage may be erased, or the blank may be left unfilled.

§ Here the analyst may insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article portable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary, or otherwise, and whether the ingredients or materials mixed are or are not injurious to health.

In the case of a certificate regarding milk, butter, or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

SALE OF FOOD AND DRUGS ACT AMENDMENT ACT, 1879.

42 & 43 Vict. c. 30. An Act to amend the sale of Food and Drugs  
Act, 1875. [21st July, 1879]

[*Preamble recites Sale of Food and Drugs Act, 1875, sec. 6.*]

1. This Act may be cited for all purposes as the Sale of Food and Drugs Act Short title. Amendment Act, 1879.

2. In any prosecution under the provisions of the principal Act for selling to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, it shall be no defence to any such prosecution to allege that the purchaser, having bought only for analysis, was not prejudiced by such sale. Neither shall it be a good defence to prove that the article of food or drug in question, though defective in nature or in substance or in quality, was not defective in all three respects.

In sale of adulterated articles no defence to allege purchase for analysis.

3. Any medical officer of health, inspector of nuisances, or inspector of weights and measures, or any inspector of a market, or any police constable under the direction and at the cost of the local authority appointing such officer, inspector, or constable, or charged with the execution of this Act, may procure at the place of delivery (*j*) any sample of any milk in course of delivery to the purchaser or consignee in pursuance of any contract for the sale to such purchaser or consignee of such milk; and such officer, inspector, or constable, if he suspect the same to have been sold contrary to any of the provisions of the principal Act, shall submit the same to be analysed (*k*), and the same shall be analysed, and proceedings shall be taken, and penalties on conviction (*l*) be enforced in like manner in all respects as if such officer, inspector, or constable had purchased the same from the seller or consignor under section thirteen of the principal Act.

Officer, inspector, or constable may obtain a sample of milk at the place of delivery to submit to analyst.

4. The seller or consignor or any person or persons entrusted by him for the time being with the charge of such milk, if he shall refuse to allow such officer,

### Penalty for refusal to give milk for analysis.

(j) **Place of delivery.**—A railway station appointed by the purchasers is a place of delivery within the section, notwithstanding that the carriage is payable by them. *Filshie v. Erington* (1892), 2 Q. B. 200 ; 56 J. P. 312.

(k) **Submission to analysis.**—It is not necessary to deliver to the public analyst the whole of the sample procured under this section. *Roife v. Thomson* (1892), 2 Q. B. 196; 61 L. J. M. C. 184. Nor is it necessary to inform the seller or his agent of the intention to have it analysed. *Rouch v. Hall*, ante, p. 880.

(b) **Penalties on conviction.**—See *Fecitt v. Walsh*, *ante*, p. 879.



42 & 43 Vict.  
c. 30.

Extension of  
Act as to sale  
in streets, &c.  
Reduction  
allowed to the  
extent of 25  
degrees under  
proof for  
brandy,  
whisky, or  
rum, and 35  
degrees for gin.  
Extension of  
meaning of  
"county."

Special pro-  
vision as to  
time for  
proceedings.

inspector, or constable to take the quantity which such officer, inspector, or constable shall require for the purpose of analysis, shall be liable to a penalty not exceeding ten pounds.

5. Any street or open place of public resort shall be held to come within the meaning of section seventeen of the principal Act.

6. In determining whether an offence has been committed under section six of the said Act by selling, to the prejudice of the purchaser, spirits not adulterated otherwise than by the admixture of water, it shall be a good defence to prove that such admixture has not reduced the spirit more than twenty-five degrees under proof for brandy, whisky, or rum, or thirty-five degrees under proof for gin (*m*).

7. Every liberty having a separate court of quarter sessions, except a liberty of a cinque port, shall be deemed to be a county within the meaning of the said Act.

8. [*Rep. by 57 & 58 Vict. c. 56. Statute Law Revision.*]

9. [*Provision for boroughs with separate police.*]

10. In all prosecutions under the principal Act, and notwithstanding the provisions of section twenty of the said Act, the summons to appear before the magistrates (*n*) shall be served upon the person charged with violating the provisions of the said Act within a reasonable time, and in the case of a perishable article not exceeding twenty-eight days from the time of the purchase from such person for test purposes of the food or drug (*o*), for the sale of which in contravention to the terms of the principal Act the seller is rendered liable to prosecution, and particulars of the offence or offences against the said Act of which the seller is accused (*p*), and also the name of the prosecutor, shall be stated on the summons, and the summons shall not be made returnable in a less time than seven days from the day it is served upon the person summoned.

(*m*) **Good defence.**—The seller sold gin more than 35 degrees under proof, at the same time bringing to the purchaser's knowledge a printed notice to the effect that all spirits were sold "as diluted spirits, no alcoholic strength being guaranteed." *Held*, that although the appellant had not a good defence under the above section, he was not deprived of any defence which he would have had under the Sale of Food and Drugs Act, 1875, and that the sale not having been to the prejudice of the purchaser, he had committed no offence within sec. 6 of the latter Act. *Gage v. Elsey*, 10 Q. B. D. 518; 52 L. J. M. C. 44.

(*n*) **Summons to appear.**—Where complaint was made to two justices, but the summons was signed and issued by another justice who had not heard the complaint, and the defendant appeared under protest, it was held that the proceedings were invalid, and that the defect was not cured by the appearance of the defendant, as he appeared under protest. *Dixon v. Wells*, 25 Q. B. D. 249; 59 L. J. M. C. 116.

(*o*) **Perishable article.**—Where the justices found that the article sold, viz., margarine, was not a perishable article, it was held that it was not necessary that the summons should be served within 28 days. *Buckler v. Wilson* (1896), 1 Q. B. 83; 65 L. J. M. C. 18. A summons under sec. 27 of the Sale of Food and Drugs Act, 1875, *ante*, against the original vendor of a perishable article of food, for giving a false warranty in writing to a purchaser, need not be served within 28 days from the purchase of the food for test purposes from that purchaser. *Cook v. White* (1896), 1 Q. B. 284; 65 L. J. M. C. 46.

(*p*) **Particulars of offence.**—In a summons under sec. 6 of the 1875 Act, *ante*, the particulars are sufficient, and comply with the above section, if they state the offence to be "selling milk that was adulterated contrary to sec. 6 of the Sale of Food and Drugs Act, 1875." The proper course for the defendant to adopt if he considers the particulars to be insufficient is to apply to the justices for an adjournment of the hearing, the granting of which is a matter for their discretion. *Neal v. Devenish* (1894), 1 Q. B. 544; 63 L. J. M. C. 78; following *Reg. v. Wakefield*, 54 J. P. 148; and distinguishing and dissenting from *Barnes v. Rider*, 62 L. J. M. C. 25; 57 J. P. 473.

A consignor of milk charged under sec. 6 of the 1875 Act can be convicted of an offence under sec. 3 of the present Act, as the variance between the summons and the offence proved is curable under the provisions of the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), sec. 1. *Hiett v. Ward*, 58 J. P. 461; 70 L. T. (N. S.) 374.

MARGARINE ACT, 1887.

50 & 51 Vict. c. 29. An Act for the better Prevention of the Fraudulent Sale of Margarine. [23rd August, 1887]

1. This Act may be cited as the Margarine Act, 1887. Short title.
2. This Act shall come into operation on the first day of January one thousand eight hundred and eighty-eight. Commencement of Act.
3. The word "butter" shall mean the substance usually known as butter, made exclusively from milk or cream, or both, with or without salt or other preservative, and with or without the addition of colouring matter. Definition.  
The word "margarine" shall mean all substances, whether compounds or otherwise, prepared in imitation of butter, and whether mixed with butter or not, and no such substance shall be lawfully sold, except under the name of margarine, and under the conditions set forth in this Act.
4. Every person dealing in margarine, whether wholesale or retail, whether a manufacturer, importer, or as consignor or consignee, or as commission agent or otherwise, who is found guilty of an offence under this Act, shall be liable on summary conviction for the first offence to a fine not exceeding twenty pounds, and for the second offence to a fine not exceeding fifty pounds, and for the third or any subsequent offence to a fine not exceeding one hundred pounds. Penalty.
5. Where an employer is charged with an offence against this Act he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he had used due diligence to enforce the execution of this Act, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the employer shall be exempt from any penalty (g). Exemption from penalty.
6. Every person dealing in margarine in the manner described in the preceding section (r) shall conform to the following regulations: Marking of cases.  
Every package, whether open or closed, and containing margarine, shall be branded or durably marked "margarine" on the top, bottom, and sides, in printed capital letters, not less than three quarters of an inch square; and if such margarine be exposed for sale, by retail (s), there shall be attached to each parcel thereof so exposed, and in such manner as to be clearly visible to the purchaser, a label marked in printed capital letters not less than one and a half inches square, "margarine"; and every person selling margarine by retail, save in a packet duly branded or durably marked as aforesaid, shall in every case deliver the same to the purchaser in or with a paper wrapper, on which shall be printed in capital letters, not less than a quarter of an inch square, "margarine" (t).

(g) **Employer exempt.**—There is no corresponding provision in the Sale of Food and Drugs Act, *ante*, but the terms of this section are very similar to those of sec. 87 of the Factory and Workshop Act, 1878, *ante*.

(r) **Preceding section.**—Presumably this means sec. 4.

(s) **Exposed for sale.**—The defendant kept margarine for sale in his shop in a parcel which was not labelled, behind a screen, and not in sight of customers. *Held*, that the margarine was not "exposed for sale" within the meaning of the Act. *Crane v. Lawrence*, 25 Q. B. D. 152; 59 L. J. M. C. 110. It is not necessary that the margarine itself should be visible to the purchasers, and if parcels of margarine, wrapped in paper, are placed in view of customers, there is an exposure for sale within the Act, and the prescribed label must be attached thereto, notwithstanding that "Margarine" is printed on the wrappers. *Wheat v. Brown* (1892), 1 Q. B. 418; 61 L. J. M. C. 94. Notices were posted in a refreshment room that "Nothing but a mixture of the best Danish butter and margarine is sold at this establishment," and slices of bread spread with the mixture were sold for consumption on the premises, and also haddocks on which was put margarine cut from a lump kept on a shelf. There were no labels, either on the slices or on the lump. *Held*, that the margarine had not been exposed for sale by retail within the meaning of the Act. *Moore v. Pearce's Dining, &c. Rooms* (1895), 2 Q. B. 657; 65 L. J. M. C. 7.

(t) **Paper wrapper.**—So long as "margarine" is printed on the wrapper in capital letters of the required size, and is not so placed as to be non-effective or misleading,

50 & 51 Vict.  
c. 29.

Presumption  
against vendor  
(*ib.*).

Margarine  
imported or  
manufactured.

38 & 39 Vict.  
c. 63.

Registration of  
manufactory.

Power to  
inspectors to  
take samples  
without  
purchase.

Appropriation  
of penalties.

7. Every person dealing with, selling, or exposing, or offering for sale or having in his possession for the purpose of sale (*x*), any quantity of margarine contrary to the provisions of this Act, shall be liable to conviction for an offence against this Act, unless he shows to the satisfaction of the court before whom he is charged that he purchased the article in question as butter, and with a written warranty or invoice to that effect, that he had no reason to believe at the time when he sold it that the article was other than butter, and that he sold it in the same state as when he purchased it, and in such case he shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor unless he shall have given due notice to him that he will rely upon the above defence.

8. All margarine imported into the United Kingdom of Great Britain and Ireland, and all margarine, whether imported or manufactured within the United Kingdom of Great Britain and Ireland, shall, whenever forwarded by any public conveyance, be duly consigned as margarine; and it shall be lawful for any officer of Her Majesty's Customs or Inland Revenue, or any medical officer of health, inspector of nuisances (*y*), or police constable, authorised under section thirteen of the Sale of Food and Drugs Act, 1875, to procure samples for analysis if he shall have reason to believe that the provisions of this Act are infringed on this behalf to examine and take samples from any package, and ascertain, if necessary by submitting the same to be analysed, whether an offence against this Act has been committed.

9. Every manufactory of margarine within the United Kingdom of Great Britain and Ireland shall be registered by the owner or occupier thereof with the local authority from time to time in such manner as the Local Government Boards of England and Ireland and the Secretary for Scotland respectively may direct (*z*), and every such owner or occupier carrying on such manufacture in a manufactory not duly registered shall be guilty of an offence under this Act.

10. Any officer authorised to take samples under the Sale of Food and Drugs Act, 1875, may, without going through the form of purchase provided by that Act, but otherwise acting in all respects in accordance with the provisions of the said Act as to dealing with samples, take for the purposes of analysis samples of any butter, or substances purporting to be butter, which are exposed for sale, and are not marked margarine, as provided by this Act; and any such substance not being so marked shall be presumed to be exposed for sale as butter.

11. Any part of any penalty recovered under this Act may, if the court shall so direct, be paid to the person who proceeds for the same, to reimburse him for the legal costs of obtaining the analysis, and any other reasonable expenses to which the court shall consider him entitled (*a*).

it is not necessary that that should be the only word printed on the wrapper. *World's Tea Co. v. Gardner*, 59 J. P. 358. Margarine was sold by retail in a cardboard box, the lid of which was fastened by an adhesive paper band, to which was attached a folded paper containing an advertisement of margarine. *Held*, that the box, paper band, and advertisement formed a "paper wrapper" within the meaning of the last part of the above section, and not a "package" within the meaning of the first part. *Toler v. Bishop*, 65 L. J. M. C. 4; 60 J. P. 9. Delivery of margarine, with the prescribed paper wrapper, wrapped, at the request of the purchaser, in an outer covering of paper, which is not marked with the word "margarine," does not constitute an offence against the section. But *quære* whether, if the outer covering had been added by the seller of his own accord, or to conceal the mark of "margarine," an offence would not have been committed. *Ib.*

(*u*) **Presumption against vendor.**—In an Irish case it was held that this section does not make the sale of margarine as butter penal irrespective of the defendant's state of mind, but throws on the defendant the burden of disproving intent and knowledge. *Fitzgerald v. Leonard*, 32 L. R. Ir. 675 Q. B. D.

(*x*) **Offering for sale.**—Advertising margarine under another name is not offering it for sale within the meaning of the Act. *World's Tea Co. v. Gardner*, *supra*.

(*y*) **Inspector of nuisances.**—Now called a "sanitary inspector" in London. Pub. Hlth. (London) Act, 1891, sec. 139 (1) (d), *ante*, vol. i.

(*z*) **Registration.**—The order of the Local Govt. Bd. as to the registration of margarine manufactories in England is dated December 22nd, 1887 (*Lond. Gaz.*, December 23rd, 1887, p. 7187).

(*a*) **Appropriation of penalties.**—See *Reg. v. Titterton*, *ante*, p. 883.



12. All proceedings under this Act shall, save as expressly varied by this Act, be the same as prescribed by sections twelve to twenty-eight inclusive of the Sale of Food and Drugs Act, 1875 (*b*), and all officers employed under that Act are hereby empowered and required to carry out the provisions of this Act. 50 & 51 Vict. c. 29. Proceedings.

13. The expression "local authority" shall mean any local authority authorised to appoint a public analyst under the Sale of Food and Drugs Act, 1875 (*c*). Definition of local authority.

SALE OF HORSEFLESH, &c. REGULATION ACT, 1889.

52 & 53 Vict. c. 11. An Act to regulate the Sale of Horseflesh for Human Food. [24th June, 1889]

1. No person shall sell, offer, expose, or keep for sale any horseflesh for human food, elsewhere than in a shop, stall, or place over or upon which there shall be at all times painted, posted, or placed in legible characters of not less than four inches in length, and in a conspicuous position, and so as to be visible throughout the whole time, whether by night or day, during which such horseflesh is being offered or exposed for sale, words indicating that horseflesh is sold there. Signs on horseflesh shops.

2. No person shall supply horseflesh for human food to any purchaser who has asked to be supplied with some meat other than horseflesh, or with some compound article of food which is not ordinarily made of horseflesh. Horseflesh not to be sold as other meat.

3. Any medical officer of health or inspector of nuisances (*d*) or other officer of a local authority acting on the instructions of such authority or appointed by such authority for the purposes of this Act may at all reasonable times (*e*) inspect and examine any meat which he has reason to believe to be horseflesh, exposed for sale or deposited for the purpose of sale, or of preparation for sale, and intended for human food, in any place other than such shop, stall, or place as aforesaid, and if such meat appears to him to be horseflesh he may seize and carry away or cause to be seized and carried away the same, in order to have the same dealt with by a justice as hereinafter provided. Power of medical officer of health to inspect meat, &c.

4. On complaint made on oath by a medical officer of health or inspector of nuisances (*d*), or other officer of a local authority, any justice may grant a warrant to any such officer to enter any building, or part of a building other than such shop, stall, or place as aforesaid, in which such officer has reason for believing that there is kept or concealed any horseflesh which is intended for sale, or for preparation for sale for human food, contrary to the provisions of this Act; and to search for, seize, and carry away or cause to be seized and carried away any meat that appears to such officer to be such horseflesh, in order to have the same dealt with by a justice as hereinafter provided. Power of justice to grant warrant for search.

Any person who shall obstruct (*f*) any such officer in the performance of his duty under this Act shall be deemed to have committed an offence under this Act.

5. If it appears to any justice that any meat seized under the foregoing provisions of this Act is such horseflesh as aforesaid, he may make such order with regard to the disposal thereof as he may think desirable; and the person in whose possession or on whose premises the meat was found shall be deemed to have committed an offence under this Act, unless he proves that such meat was not intended for human food contrary to the provisions of this Act. Power of justice with reference to disposal of horseflesh.

6. Any person offending against any of the provisions of this Act, for every such offence shall be liable to a penalty not exceeding twenty pounds, to be Penalty.

(*b*) Sale of Food and Drugs Act, 1875, secs. 12—28, *ante*.

(*c*) Local authority.—See sec. 10 of the Sale of Food and Drugs Act, 1875, *ante*.

(*d*) Inspector of nuisances.—Now called a "sanitary inspector" in London. Pub. Hlth. (London) Act, 1891, sec. 139 (1) (*d*), *ante*, vol. i.

(*e*) At all reasonable times.—See *Small v. Bickley*, *ante*, vol. i., p. 286.

(*f*) Obstruct.—As to what amounts to obstruction, see *Borrow v. Howland* and *Small v. Bickley*, *ante*, vol. i., p. 343.

- 52 & 53 Vict.  
c. 11. recovered in a summary manner (*g*); and if any horseflesh is proved to have been exposed for sale to the public in any shop, stall, or eating-house other than such shop, stall, or place as in the first section mentioned, without anything to show that it was not intended for sale for human food, the onus of proving that it was not so intended shall rest upon the person exposing it for sale.
- Definition of  
"horseflesh." 7. For the purposes of this Act "horseflesh" shall include the flesh of asses and mules, and shall mean horseflesh, cooked or uncooked, alone or accompanied by or mixed with any other substance.
- Local authorities for purposes of Act. 8. For the purposes of this Act the local authorities shall be, in the City of London and the liberties thereof, the Commissioners of Sewers, and in the other parts of the county of London the vestries and district boards acting in the execution of the Metropolis Local Management Acts, and in other parts . . .
- Short title. 9. [*Application to Scotland.*]  
10. This Act may be cited as the Sale of Horseflesh &c. Regulation Act, 1889.  
11. [*Commencement of Act : September 29th, 1889.*]

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(*g*) **Summary manner.**—See note to sec. 227 of the Met. Man. Act, 1855, *ante*, vol. i., as to the time and manner of taking summary proceedings.

## GAS.

|                                                                                                     |     |
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| 22 & 23 Vict. c. 66 ("Sale of Gas Act, 1859") .....                                                 | 891 |
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## SALE OF GAS ACT, 1859.

22 & 23 Vict. c. 66. An Act for regulating Measures used in Sales  
of Gas. [13th August, 1859]

1. In construing this Act the word "meter" shall mean gas meter, and shall include every kind of machine used for measuring gas; and the word "person" shall include corporations.

Interpretation  
of words  
"meter" and  
"person."

2. The only legal standard or unit of measure for the sale of gas by meter shall be the cubic foot containing 62·321 pounds avoirdupois weight of distilled or rain water weighed in air at the temperature of sixty-two degrees of Fahrenheit's thermometer, the barometer being at thirty inches.

Fixing unit of  
measure.

3. From time to time models of such multiples and decimal parts of the said cubic foot as the *Lord High Treasurer or the said Commissioners (a)* shall from time to time think expedient, shall be carefully made, with proper balances, indices, and apparatus, for testing the measurement and registration of meters, and such models shall be verified under the direction of the *Lord High Treasurer or the said Commissioners (a)*, and when so made and verified shall be deposited in the office of the *Comptroller-General of the Exchequer (a)* at *Westminster*; and copies of the models so from time to time deposited, verified as aforesaid, shall be sent to the Lord Mayor of *London*, and the chief magistrate of *Edinburgh* and *Dublin*, and to the chief magistrate of such other cities and boroughs, and to such other places and persons in Her Majesty's dominions, as the said *Lord High Treasurer or the aforesaid Commissioners (a)* may from time to time direct; and the said *Lord High Treasurer or the said Commissioners (a)* shall appoint a competent person or persons to design and make, subject to the approval and by direction of such *Lord High Treasurer or the said Commissioners (a)*, stamps of a uniform design to be used for stamping meters throughout the United Kingdom, with only such variations of numbers or marks thereon as shall be sufficient to distinguish each inspector's district.

Models of  
measures to be  
made and veri-  
fied under the  
direction of  
the Treasury (a).  
Models to be  
deposited.

4. In *England* at some general or quarter sessions of the peace . . . the *justices of the peace of every county*, or county of a city, in *general or quarter sessions assembled (b)* . . . within nine months after the passing of this Act, and so from time to time at any subsequent *general or quarter sessions (b)* or meeting so called, shall determine the number of copies of the said models of gasholders, with proper balances, indices, and apparatus as aforesaid, which they shall deem requisite for the testing of meters within their respective jurisdictions, and shall direct that such copies, verified and stamped (c) at the

Copies of the  
models of gas-  
holder to be  
provided by  
order of  
general or  
quarter  
sessions in  
*England*.

(a) **Treasury.**—The powers and duties of the Lord High Treasurer, the Commissioners of the Treasury, and the Comptroller-General of the Exchequer under this Act are transferred to the Board of Trade by the Weights and Measures Act, 1878, sec. 33, *post*.

(b) **Justices of the peace.**—All powers conferred by this Act on the justices of the peace of any county in general or quarter sessions assembled were, in so far as relates to the Metropolis, including the City, transferred to and vested in the Metropolitan Bd. Wks. by the Metropolis Gas Act, 1861 (24 & 25 Vict. c. 79.) The expenses of the board incurred in pursuance of the Act were defrayed out of the rates leviable by them within the jurisdiction, exclusive of the City. *Id.* The powers of the Met. Bd. Wks. are transferred to the county council, whose expenses under the Act are defrayed out of the special county rate. Loc. Govt. Act, 1888, secs. 40 (8), 41 (3), and 68 (3), *ante*, vol. i.

(c) **Verified and stamped.**—The provisions of the Weights and Measures Acts, 1878

ex /



22 & 23 Vict.  
c. 66.

Appointment  
of inspectors.

*Exchequer* (*d*), together with such number of stamps for stamping meters as they shall deem requisite, shall be provided for the use of the same, and shall fix the places at which such copies and stamps shall be deposited, and shall appoint a sufficient number of inspectors of meters for the safe custody of such copies and stamps, and for the discharge of the other duties hereinafter mentioned, and shall allot to each inspector a separate district, and from time to time, when necessary, shall subdivide and re-allot such districts, and all such districts shall be distinguished by the number or mark applied thereto on such stamps, and they shall direct what reasonable remuneration shall be paid to such inspectors for the discharge of such duties as they shall have been ordered by such *Justices* (*e*) . . . as aforesaid to perform, and they are hereby empowered to suspend or dismiss any inspectors so appointed, or to appoint additional inspectors as occasion may require (*f*) . . .

#### 5. In *Ireland* . . .

Officers of the  
*Exchequer* (*d*)  
at Westminster  
to stamp copies  
of models.

6. The copies of the said models so directed by the said *justices* (*e*) . . . to be verified and stamped at the *Exchequer* (*d*), shall be compared with the models deposited with the *Comptroller-General of the Exchequer* (*d*) as aforesaid, and if correct shall be verified and stamped by the *Comptroller-General* (*d*) or some other officer of the *Exchequer* (*d*) at Westminster, duly authorised (*i*) . . . and no stamp duty shall be payable thereon.

Expense of  
providing  
copies of  
models and  
remuneration  
of inspectors  
defrayed out of  
county rates,  
&c.

7. The expense of providing and transmitting such copies of models of gas-holders, with proper balances, indices, and apparatus as aforesaid, and of the stamp to be used by the inspectors, and the remuneration to the inspectors, shall be paid in *England* out of the stock raised in such counties (*k*) . . . (*l*) provided always, that in the City of *London* the expenses and remuneration aforesaid shall be paid out of the consolidated rate raised by the Commissioners of Sewers of the City of *London* (*l*) . . .

No maker or  
seller of meter,  
or person in  
the service of  
any gas  
company or  
manufacturer  
of meters or  
gas, to be an  
inspector.  
Inspector to  
enter into  
recognizances,

8. No maker, repairer, or seller of meters or of gas, or person employed in the making, repairing, or selling of meters or gas, shall be an inspector of meters under the provisions of this Act; and every inspector shall forthwith enter into a bond or recognizance to the Queen, to be sued for in any courts of record, in such sum, and either with or without a surety or sureties, as the *justices* (*e*) . . . by whom he may have been appointed shall fix, for the due and punctual performance of the duties of his office, and for the due and punctual payment at such time or times as he may be directed by the *justices* (*e*) by whom he may have been appointed, of all fees received by him under the authority of this Act, and for the safety of the said copies of models and stamps committed to his charge, and for their due restoration and surrender to such person or persons as may be appointed to receive them by the *justices* (*e*) . . . immediately on his removal or other cessation from office.

Inspectors to  
attend at  
towns where  
gas is consumed  
when required  
by justices.

9. In *England* the *justices in general or quarter sessions assembled* (*e*) . . . shall determine and appoint on what days, at what hours, and what places each and every inspector shall attend with the said copies of models and stamps in his custody at each of the several towns and districts within their respective jurisdictions as they shall deem expedient; and every such inspector so attending shall examine, test, and, if found correct, stamp all such meters as shall be required under the provisions of this Act to be so examined, tested, and stamped, and shall deface or destroy the stamp on any meter tested and found

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and 1889, *post*, as to the verification and re-verification of local and working standards, apply to the standards used by any local authority in testing meters under this Act See sec. 15 of the latter Act, *post*, and note thereto.

(*d*) *Exchequer*.—Now the Board of Trade. See note (*a*) to sec. 3, *supra*.

(*e*) *Justices of the peace*.—Now the county council. See note to sec. 4, *ante*.

(*f*) *Section 4*.—The omitted words do not affect London.

(*g*) *Section 6*.—The omitted words related to fees, and were repealed by the Standards of Weights, Measures, and Coinage Act, 1866 (29 & 30 Vict. c. 82), sec. 14.

(*k*) *Expenses*.—The expenses incurred by the county council under this Act are paid out of the special county rate. See note to sec. 4, *ante*.

(*l*) *Section 7*.—The omitted words apply to districts beyond the Metropolis.

incorrect under the provisions of this Act, and he shall keep a book wherein he shall enter minutes of all such examinations and testings, with the numbers of identity and capacity marked by the manufacturer on such meters, and give, if required, a certificate under his hand of every such stamping and defacing; and every inspector shall once in every quarter of a year account to the treasurer of the county, . . . county of a city, . . . or to such other person as shall be duly authorised by those by whom he may have been appointed, for all fees received by him under this Act, and shall pay the amount thereof to such treasurer as aforesaid, who shall account for the same.

22 & 23 Vict.  
c. 66.

Inspector to pay fees to treasurer of county, &c.

10. No meter duly stamped under the authority of this Act shall be liable to be re-stamped, although the same be used in any other place than that at which the same was originally stamped, but shall be considered as a legal meter throughout the United Kingdom, unless found to be incorrect within the meaning of this Act.

Meters when stamped need not be re-stamped.

11. In case any inspector of meters shall stamp any meter without duly testing and finding the same to be correct, or shall refuse, or for three days after being so required under the provisions of this Act neglect, without lawful excuse, to test any meter or to stamp any meter found to be correct on being so tested, or shall be guilty of a breach of any duty imposed upon him by this Act, or shall otherwise misconduct himself in the execution of his office, every such offender shall upon conviction forfeit a sum not exceeding five pounds for every such offence.

Penalty on inspector for misconduct.

12. No meter shall be stamped which shall be found by the inspector to register, or be capable of being made by any contrivance for that purpose, or by increase or by decrease of the water in such meter, or by any other means practically prevented in good meters, to register, quantities varying from the true standard measure of gas more than two per centum in favour of the seller or three per centum in favour of the consumer; and every meter, whether stamped or unstamped, which shall be found by such inspector to register or be so capable of being made to register quantities varying beyond the limits aforesaid, shall be deemed incorrect within the meaning of this Act; and every meter which shall be found by such inspector to measure and register quantities accurately, or not varying beyond the limits aforesaid, and shall be found incapable by any such means as aforesaid of being made to register quantities varying beyond the limits aforesaid, shall be considered to be correct, and be stamped as aforesaid in such manner and on such part of the meter as shall be specially directed by the authority appointing him, or in default of such direction as shall in his opinion best prevent fraud: Provided always, that every meter having a measuring capacity at one revolution or complete action of the meter of not less than five cubic feet, and having permanently marked upon it in some conspicuous place the words "without float," shall be stamped by the inspectors, if found correct, within the meaning of this Act, in all other respects except that it is capable of being made by abstraction of water to register incorrectly against the seller of gas, but it shall not be lawful after the time aforesaid to use in the sale of gas any such meter, when so stamped by the inspector, except by written agreement between the buyer and seller specifying that this description of meter shall be used.

Meters not to be stamped if more than two per cent. incorrect in favour of the buyer or three per cent. in favour of the seller, and to be stamped if erroneous to no greater extent.

Certain meters incorrect against the seller of gas may be used by agreement.

13. The following rules shall be observed by the inspector in testing meters under the provisions of this Act:

Rules for testing meters.

Firstly, the meters shall be tested for soundness or leakage only, and not for percentage of error, when fixed on a horizontal base, and with gas under a pressure equal to a column of water three inches high, with a light or lights consuming not more than one twentieth part of its measuring capacity per hour marked thereon, nor less than one half of a cubic foot per hour, for all meters of a measuring capacity not exceeding one hundred cubic feet per hour, and not more than one fortieth part of its said measuring capacity per hour for all meters of any greater measuring capacity per hour than one hundred cubic feet; and all meters found to work under such test shall be deemed sound meters, and any meter found not to work under such test shall not be stamped:

The meter to be tested for percentage of error shall be fixed on a horizontal base, and shall be tested at a pressure equal to a column of water five-tenths of an inch high, and passing the quantity of gas or atmospheric air per hour

22 & 23 Vict.  
c. 66.

Penalty for  
counterfeiting  
stamps.

Penalty for  
obstructing  
inspector.

Consumers may  
use any  
stamped  
meter.

After ten  
years all  
meters to be  
stamped.

After twelve  
months no  
meter to be  
sold, &c. un-  
less stamped;  
and unstamped  
meters may be  
stamped if  
required, or  
stamped  
meters sub-  
stituted, at  
the expense of  
the person  
requiring it.

which shall be marked thereon as its measuring capacity per hour, and the water used in such testing, and the air of the room in which such testing shall be made, shall be as nearly as practicable of the same temperature as the gas or air passed through the meter.

14. If any person or persons shall make, except under the authority of this Act, or forge or counterfeit, or cause or procure to be made, except as aforesaid, or forged or counterfeited, or knowingly act or assist in the making, except as aforesaid, or forging or counterfeiting, any stamp or mark which may be hereafter used for the stamping or marking of any meter under this Act, every person so offending shall for every such offence forfeit on conviction a sum not exceeding fifty pounds or less than ten pounds; and if any person shall knowingly sell, utter, or dispose of, let, lend, or expose to sale, any meter with such forged stamp or mark thereon, every person so offending shall for every such offence forfeit on conviction a sum not exceeding ten pounds or less than forty shillings, and all meters with such forged or counterfeited stamps shall be forfeited and destroyed.

15. Any person who shall knowingly repair or alter, or knowingly cause to be repaired or altered, or knowingly tamper with, or do any other act in relation to any stamped meter so as to cause such meter to register unjustly or fraudulently, or who shall prevent or refuse to allow lawful access to any meter in his possession or control, or the supply of water thereto as hereinafter provided, or shall obstruct or hinder any examination or testing authorised by this Act or any such meter, shall on conviction forfeit a sum not exceeding five pounds, pay the fees for removing and testing, and the expense of purchasing and fixing a new meter; Provided that the payment of any such penalty as aforesaid shall not exempt the person paying from liability to indictment or other proceeding at law to which he would otherwise be liable, or deprive any person of the right to recover damages against such person for any loss or injury sustained by such act or default.

16. Every consumer of gas may purchase and use for the measurement of the gas supplied to him any meter duly stamped under the authority of this Act, provided that the gas to be consumed per hour shall not exceed the quantity per hour the meter is intended to measure, so marked on the outside thereof as aforesaid.

17. After the expiration of ten years from the passing of this Act all meters whatsoever not previously stamped which shall be used for buying and selling gas, or for the collecting of any rates or duties, or for making any charges on the passage, transmission, or conveyance of gas, shall be examined and tested under the authority of this Act, and stamped if found correct; and every person who shall after the times respectively fixed by this Act knowingly use any meter which has not been so stamped as aforesaid shall on conviction forfeit a sum not exceeding five pounds, and any contract, bargain, or sale made by any such meter shall be void; and every such meter so used shall, on being discovered by any inspector so appointed as aforesaid, be seized, and, on conviction of the person knowingly using or possessing the same, shall be forfeited and destroyed.

18. No meter for the purpose of ascertaining the quantity of gas sold shall be fixed for use after the expiration of twelve months after the passing of this Act, unless the same shall have its measuring capacity at one revolution or complete action of the meter, and also the quantity per hour it is intended to measure in cubic feet, or multiples or decimal parts of a cubic foot, denominated or marked on the outside thereof in legible letters or figures, and shall be stamped by an inspector of meters under the provisions of this Act; and every person who after the expiration of such twelve months shall fix for use any such meter before it has been so stamped shall be liable to a penalty of five pounds for every such unstamped meter; and all meters required to be tested and stamped, except as hereinafter mentioned, shall be delivered to the inspector at the place where his testing gasholder and apparatus may be kept; and every purchaser and seller of gas by meter may, at his own expense, at any time after the expiration of the said twelve months, require any unstamped meter by which his gas is measured to be examined, tested, and, if found correct, stamped, or he may at his own expense substitute a stamped meter in the place of any such unstamped meter: Provided always, that such purchaser or seller of gas shall



before removal of any such unstamped meter for the purposes aforesaid give twenty-four hours' notice in writing of such intended removal to the other party to the contract.

22 & 23 Vict.  
c. 66.

19. The fees for examination, comparison, and testing, with or without stamping, meters, shall be sixpence for each meter delivering a cubic foot of gas in four or more revolutions or complete repetitions of the action of the meter, and one shilling for each meter delivering a cubic foot of gas by any less number of revolutions or complete actions, or one revolution or complete action, and for each meter delivering more than one cubic foot of gas by one revolution or complete action the further sum of one shilling for every cubic foot of gas delivered at one revolution or complete action beyond the first cubic foot.

Fees for testing  
and stamping  
meters.

20. In England . . . it shall be lawful for an inspector authorised in writing under the hand of any justice of the peace in England . . . at the request and expense of any buyer or seller of gas, who shall have given twenty-four hours' notice in writing to the other party to the contract, at all seasonable times to enter any house or shop, store, warehouse, still, yard, or place whatsoever within his jurisdiction where any meter, whether stamped or unstamped, shall be fixed or used, and to examine and test the same, and if necessary for such purpose to remove such meter, doing as little damage thereby as may be; and if upon such examination and testing it shall appear that any such meter is incorrect within the meaning of this Act, or fraudulent, the same shall not be refixed or used again unless and until altered and repaired so as to measure and register correctly, and stamped; and the fees on such removal, examination, and testing of a meter, whether stamped and replaced or not, shall be double the fees hereinbefore made payable for testing and stamping, and shall be payable by the buyer or seller of gas as the justice of the peace in England . . . shall determine, and shall be recoverable accordingly: Provided always, that in case the head office of the person or company to whom such notice is to be given shall be more than twenty miles distant from the meter referred to in such notice, three days' notice in writing shall be given instead of twenty-four hours' notice as aforesaid; and provided also, that any person duly authorised by any company or persons selling gas by meter may supply water to any meter, so as to keep the water at the correct level.

Power to  
justices and  
inspectors to  
enter houses,  
&c., and  
inspect gas  
measures and  
meters.

21. In case of any dispute between the buyer and seller of gas by meter, or between any owner of a meter and any inspector of meters under this Act, respecting the correctness of any meter, the inspector shall, if required by any such person dissatisfied with his decision, give such party his reasons in writing for such decision, and such party may require such meter to be examined and re-tested by two inspectors of adjoining or neighbouring districts, to be named by any justice of the peace having jurisdiction in the district where such meter shall have been tested; and the unanimous decision of such last-mentioned inspectors shall be final as to the correctness or incorrectness of such meter, except in case of appeal to the general or quarter sessions; and in case such two inspectors shall not agree, the decision of the inspector of the district to which such meter belongs shall be considered final, except in case of appeal to the general or quarter sessions, as hereinafter provided; and the expenses of the proceedings to be taken under the powers hereby granted shall be ascertained by the justice, who shall also determine by and to whom the same shall be paid, and such expenses may be recovered in any court of competent jurisdiction.

Disputed  
decision of  
inspector to be  
referred to two  
inspectors of  
adjoining  
districts, &c.

22. In England . . . all persons who may think themselves aggrieved by any act or decision of any inspector or inspectors of meters, or by any order, judgment, or determination of any justice of the peace, mayor, or chief magistrate, relating to any matter or thing in this Act mentioned or contained, may appeal to the justices of the peace, recorder, or other presiding officer at the then next practicable general or quarter sessions *(m)* . . . and the said justices, recorder, or other presiding officer may, if they or he see cause, reverse or alter such decision, and mitigate any penalty or forfeiture *(m)* . . .

Persons  
aggrieved may  
appeal to  
quarter  
sessions.

23. Where any municipal corporation, local board of health, or two or more justices, or any other corporation or person now have powers of appointing inspectors of meters, and they or such inspectors now have powers of stamping,

This Act and  
existing powers  
not to be  
cumulative.

*(m)* Section 22.—The omitted words are repealed and provisions substituted by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43).

22 & 23 Vict.  
c. 66.

Proceedings  
not to be  
quashed for  
want of form or  
removed.

As to recovery  
and application  
of penalties (o).

re-stamping, examining, or testing meters, those powers and the provisions of this Act shall not be cumulative, but after the expiration of nine months after the passing of this Act the provisions of this Act shall supersede all such powers.

24. No proceeding to be had or taken in pursuance of this Act shall be quashed or vacated for want of form, or be removed by certiorari or by any other writ or proceeding whatsoever into any of Her Majesty's courts of record at Westminster or elsewhere, any law or statute to the contrary notwithstanding.

25. In England (n) . . . all fees and penalties received and recovered under this Act shall be applied in aid of the stock or fund out of which the expenses of carrying the Act into effect shall be defrayed (n) . . . and the whole penalties, after deducting all charges, and such remuneration to the person prosecuting as the said justices shall think fit, shall be applied in aid of the funds liable under the provisions of this Act to the cost of providing and maintaining copies of the said models in the place where such penalties shall be awarded; and it is hereby provided that it shall be competent for the said courts respectively to proceed in a summary way and to grant warrant for bringing the parties complained of before them, and upon proof on oath by one or more credible witnesses, or on the confession of the offender, or on other legal evidence, forthwith to give judgment on such complaint without any written pleadings or record of evidence, and to grant warrant for the recovery of such penalties and expenses decreed for, failing payment within fourteen days after conviction, by poinding, or by imprisonment (n) . . .

26. In Scotland . . .

27—28. [*Rep. by Public Authorities Protection Act, 1893, post.*]

## GASWORKS CLAUSES ACT, 1847.

10 & 11 Vict. c. 15. An Act for consolidating in One Act certain Provisions usually contained in Acts authorising the making of Gasworks for supplying Towns with Gas. [23rd April, 1847]

Extent of Act.

1. This Act shall extend only to such gasworks as shall be authorised by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act (p).

(n) **Section 25.**—The words omitted after “England” and “defrayed” apply to Ireland and Scotland. The words omitted at the end of the section are repealed by 55 & 56 Vict. c. 19 (Statute Law Revision).

(o) **Recovery of penalties.**—All penalties and forfeitures under this Act are to be recovered summarily. Sale of Gas Act, 1860 (23 & 24 Vict. c. 146).

(p) **Application of Act.**—London is supplied mainly by five gas companies, viz.:—The *Commercial Gas Co.*, incorporated and exercising its powers under the Commercial Gas Acts, 1852 (15 & 16 Vict. ch. clv.); and 1875 (38 & 39 Vict. ch. cc.); the *Gaslight and Coke Co.*, under the Gaslight and Coke Company's Acts, 1868 (31 & 32 Vict. ch. cvi.); 1872 (35 Vict. ch. xxiii.); and 1876 (39 & 40 Vict. ch. ccxxv.); and the City of London Gas Act, 1868 (31 & 32 Vict. ch. cxxv.); the *South Metropolitan Gas Co.*, under the South Metropolitan Gas Acts, 1842 (5 & 6 Vict. ch. lxxix.); 1869 (32 & 33 Vict. ch. cxxx.); 1876 (39 & 40 Vict. ch. ccxxix.); 1881 (44 & 45 Vict. ch. clxxii.); 1882 (45 Vict. ch. xxxviii.); and 1896 (59 & 60 Vict. ch. ccxvi.); the *Crystal Palace District Gas Co.*, under the Crystal Palace District Gas Acts, 1858 (21 & 22 Vict. ch. cxxix.); 1865 (28 Vict. ch. xxxii.); 1873 (36 Vict. ch. lix.); and 1893 (56 & 57 Vict. ch. clxviii.); and the *Wandsworth and Putney Gaslight and Coke Co.*, under the Wandsworth and Putney Gas Acts, 1856 (19 & 20 Vict. ch. lxii.); 1866 (29 & 30 Vict. ch. cclxxv.); and 1880 (43 & 44 Vict. ch. lxxii.). Besides these companies, some of the

And with respect to the construction of this Act and any Act incorporated therewith, be it enacted as follows:

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>2. The expression "the special Act," used in this Act, shall be construed to mean any Act which shall be hereafter passed authorising the construction of gasworks, and with which this Act shall be so incorporated as aforesaid; and the word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special Act" had been used; and the expression "the lands" shall mean the lands which shall by the special Act be authorised to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the gasworks and the works connected therewith by the special Act authorised to be constructed; and the expression "the undertakers" shall mean the persons by the special Act authorised to construct the gasworks.</p> | <p>10 &amp; 11 Vict.<br/>c. 15.</p> <p>Interpretations<br/>in this Act :<br/>"Special Act :"<br/>"Prescribed :"<br/><br/>"The lands :"<br/>"The under-<br/>taking :"<br/>"The under-<br/>takers :"</p> |
| <p>3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say—</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>Interpretations<br/>in this and the<br/>special Act :</p>                                                                                                                                           |
| <p>Words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number :</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>Number :</p>                                                                                                                                                                                        |
| <p>Words importing the masculine gender shall include females :</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>Gender :</p>                                                                                                                                                                                        |
| <p>The word "person" shall include corporation, whether aggregate or sole :</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>"Person :"</p>                                                                                                                                                                                      |
| <p>The word "lands" shall include messuages, lands, tenements, and hereditaments or heritages of any tenure :</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>"Lands :"</p>                                                                                                                                                                                       |
| <p>The word "street" shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place within the limits of the special Act :</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>"Street :"</p>                                                                                                                                                                                      |
| <p>The expression "the gasworks" shall mean the gasworks and the works connected therewith by the special Act authorised to be constructed :</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>"The gas-<br/>works :"</p>                                                                                                                                                                          |
| <p>The expression "gas rate" shall include any rent, reward, or payment to be made to the undertakers for a supply of gas :</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>"Gas rate :"</p>                                                                                                                                                                                    |
| <p>The word "month" shall mean calendar month :</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>"Month :"</p>                                                                                                                                                                                       |
| <p>The expression "superior courts" where the matter submitted to the cognizance of the superior courts arises in England . . . shall mean Her Majesty's superior courts of record at Westminster (g) . . .</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>"Superior<br/>courts :"<br/>"Oath :"</p>                                                                                                                                                            |
| <p>The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath :</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>"County :"</p>                                                                                                                                                                                      |
| <p>The word "county" shall include riding or other division of a county having a separate commission of the peace, . . . and it shall also include county of a city or county of a town :</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>"Justice :"</p>                                                                                                                                                                                     |
| <p>The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises; and where any matter shall be authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices met and acting together :</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>"Two justices :"</p>                                                                                                                                                                                |
| <p>The word "sheriff" shall mean in Scotland . . .</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>"Sheriff :"</p>                                                                                                                                                                                     |
| <p>The expression "quarter sessions" shall mean quarter sessions as defined in the special Act; and if such expression be not there defined it shall mean the court of general or quarter sessions of the peace which shall be held at the place nearest to the gasworks, or the principal office thereof for the</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>"Quarter<br/>sessions :"</p>                                                                                                                                                                        |

suburban districts are supplied by companies whose works are situate outside the county of London, but these latter companies are not dealt with here.

The present Act is applied to the Commercial, the Gaslight and Coke, and the South Metropolitan Gas Companies, by the Metropolis Gas Act, 1860, sec. 2, *post*; to the Crystal Palace Gas Co. by their special Acts, 1858, sec. 4, and 1893, sec. 2; and to the Wandsworth and Putney Gaslight and Coke Co. by their special Act, 1880, sec. 3; subject to certain modifications, which, so far as they affect the relations of the companies with the local authorities or the public, are noted under the sections modified.

(g) **Superior courts at Westminster.**—Now the High Court of Justice. Judicature Act, 1873 (36 & 37 Vict. c. 66), secs. 3 and 4.



10 & 11 Vict.  
c. 15.

*Citing the  
Act.*

Short title of  
the Act.

Form in which  
portions of this  
Act may be  
incorporated in  
other Acts.

*Laying of  
pipes.*

Power to break  
up streets, &c.  
under superin-  
tendence, and  
to open drains.

Not to enter on  
private land  
without  
consent.

county or place in which the gasworks are situate, or for some division of such county having a separate commission of the peace.

And with respect to citing this Act or any part thereof, be it enacted as follows:

4. In citing this Act in other Acts of Parliament and in legal instruments, it shall be enough to use the expression "The Gasworks Clauses Act, 1847."

5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act, and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act; and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

And with respect to the breaking up of streets for the purpose of laying pipes, be it enacted as follows (r):

6. The undertakers, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges (r) within the limits of the special Act, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service pipes, and other works, and from time to time repair, alter, or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the gas, and for the purposes aforesaid may remove and use all earth and materials in and under such streets and bridges, and they may in such streets erect any pillars, lamps, and other works, and do all other acts which the undertakers shall from time to time deem necessary for supplying gas to the inhabitants of the district included within the said limits, doing as little damage as may be in the execution of the powers hereby or by the special Act granted, and making compensation for any damage which may be done in the execution of such powers.

7. Provided always, that nothing herein shall authorise or empower the undertakers to lay down or place any pipe or other works into, through, or against any building, or in any land, not dedicated to public use (s), without the consent of the owners and occupiers thereof; except that the undertakers may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any

(r) **Laying pipes. Breaking up streets.**—These provisions (secs. 6—12) correspond with secs. 28—34 of the Waterworks Clauses Act, 1847, *post*, tit. "Water." See cases cited thereunder.

For further provisions regulating the breaking up and reinstatement of streets, the laying of pipes, and the notice to and superintendence of the local authorities, see the Metrop. Gas Act, 1860, secs. 49, 50, and 54, *post*; the Metrop. Man. Act, 1855, secs. 109—115; the Metrop. Man. Amend. Act, 1862, sec. 82; and the Metropolitan Paving Act, 1817, secs. 15—23, *ante*, vol. i. As to laying pipes in any street where there is a subway belonging to the County Council constructed for the reception of gas and other pipes, see the Metropolitan Subways Act, 1868, and the London Coun. Counc. (Subways) Act, 1893, *post*, tit. "Subways."

As to the grounds on which the court will grant or refuse an injunction to restrain a gas company from disturbing the roadway for the purpose of laying down pipes, see *Att.-Gen. v. Cambridge Gas Co.*, L. R. 4 Ch. App. 71; 38 L. J. Ch. 94, and cases there cited.

As to the power of tramway companies to alter the position of gas mains or pipes, see the Tramways Act, 1870, sec. 30, *post*.

(s) **Not dedicated to public.**—Occupation roads laid through an estate for the use and convenience of the inhabitants are not thereby dedicated to the public. Where, on the partition of a building estate, partly laid out with private roads, the owners taking the private roads covenanted that the other freeholders and occupiers should have the full use and enjoyment of the roads as if they were public roads, it was held that a request by a minority of the occupiers to be supplied with gas was sufficient, without the consent of the freeholders, to justify the breaking up of the roads by the gas company. *Selby v. Crystal Palace District Gas Co.* 4 De F. & J. 246; 31 L. J. Ch. 595.

land wherein any pipe hath been already lawfully laid down or placed in pursuance of this or the special Act or any other Act of Parliament, and may repair or alter any pipe so laid down.

10 & 11 Vict.  
c. 15.

8. Before the undertakers proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

Notice to be served on persons having control, &c. before breaking up streets or opening drains.

9. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by two justices; and such justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain: Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the undertakers' intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets or drains not to be broken up except under superintendence of persons having control of the same.

If persons having the control, &c. fail to superintend, undertakers may perform the work without them.

10. When the undertakers open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times whilst any such road or pavement shall be so opened or broken up cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up, and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Streets, &c. broken up to be reinstated without delay.

11. If the undertakers open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid when so required, except in the cases in which the undertakers are hereby authorised to perform such works without any superintendence or notice, or if the undertakers make any delay in completing any such work or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made, a sum not exceeding five pounds for every such offence (t), and they shall forfeit an additional sum of five pounds for each

Penalty for delay in reinstating streets, &c.

(t) **Liability for default.**—Notwithstanding the penalty imposed by this section, a gas company was held to be liable for injuries arising from the upsetting of a cart in consequence of the negligent manner in which they had reinstated a road. *Goodson v. Sunbury Gas Consumers' Co.*, 75 L. T. (N.S.) 251. See also *Gray v. Bullen and Hyams v. Webster*, ante, vol. i., p. 155.

10 & 11 Vict. c. 15. day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay other parties may reinstate and recover the expenses.

**12.** If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the undertakers; and such expenses may be recovered in the same manner as damages are recoverable under this or the special Act.

*Supply of gas.*

And with respect to the supply of gas, and the recovery of the rent to be paid for the same, be it enacted as follows:

Power of the company to contract for lighting streets, &c.

**13.** The undertakers may from time to time enter into any contract with any person for lighting or supplying with gas any public or private building, or for providing any person with pipes, burners, meters, and lamps, and for the repair thereof; and may also from time to time enter into any contract with the commissioners, trustees, or other persons having the control of the streets within the limits of the special Act for lighting the same or any of them with gas, and for providing such commissioners, trustees, or persons with lamps, lamp posts, burners, and pipes for such purpose, and for the repairs thereof, in such manner and upon such terms as shall be agreed upon between the undertakers and the said commissioners, trustees, or other persons (*u*).

**14—15.** [*Power to let meters. Meters not liable to distraint for rent, &c. Undertakers may enter buildings for ascertaining quantity of gas consumed. Repealed by 38 & 39 Vict. c. 16 (Statute Law Revision), except so far as incorporated with special Acts to which the Gasworks Clauses Act, 1871, does not apply. Substantially re-enacted by secs. 18 and 21 of the latter Act, post.*]

Recovery of rents due for gas.

**16.** If any person supplied with gas by virtue of this or the special Act neglect to pay the rent due for the same to the undertakers, the undertakers may stop the gas from entering the premises of such person, by cutting off the service pipe, or by such means as the undertakers shall think fit (*x*) . . .

**17.** [*Power to take away pipes, &c., when supply of gas discontinued. Repealed by 38 & 39 Vict. c. 16 (Statute Law Revision), except so far as incorporated with special Acts to which the Gasworks Clauses Act, 1871, does not apply. Substantially re-enacted by sec. 22 of the latter Act, post.*]

*Undue use of gas.*

And with respect to waste or misuse of the gas, or injury to the pipes and other works, be it enacted as follows:

Penalty for fraudulently using the gas of the undertakers.

**18.** Every person who shall lay or cause to be laid any pipe to communicate with any pipe belonging to the undertakers without their consent (*y*) or shall fraudulently injure any such meter as aforesaid, or who, in case the gas supplied by the undertakers is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the undertakers, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or who shall otherwise improperly use or burn such gas, or shall supply any other person with any part of the gas supplied to him by the undertakers, shall forfeit to the undertakers the sum of

(*u*) **Terms for supply of gas.**—As to the limits to the price of gas supplied by the five London gas companies, see the Commercial Gas Act, 1875, sec. 53, and note thereto, *post*. And as to the price of gas supplied for public lamps, see the Gasworks Clauses Act, 1871, sec. 24, and the Commercial Gas Act, 1875, sec. 69, and notes thereto, *post*.

(*x*) **Section 16.**—The remainder of this section is repealed by 38 & 39 Vict. c. 16 (Statute Law Revision), except so far as it is incorporated with special Acts to which the Gasworks Clauses Act, 1871, does not apply. It is replaced by sec. 23 of the latter Act, *post*.

(*y*) **Laying pipe without consent.**—The occupiers of certain premises substituted for part of a gas pipe belonging to a gas company a larger pipe for the purpose of increasing their supply. This was done without fraud, but without the company's consent, although notice of intention to disconnect had been given under sec. 15 of the Gasworks Clauses Act, 1871. *Held*, that the occupiers were rightly convicted under the above section. *Wood v. West Ham Gas Co.*, 52 L. T. (N. S.) 817; 49 J. P. 662. A person who fraudulently, by means of stopcocks and pipes, intercepts and abstracts gas between the main and the meter is guilty of larceny. *Reg. v. White*, 22 L. J. M. C. 123; 17 Jur. 536.



five pounds for every such offence (z) and also the sum of forty shillings for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be so committed or continued, or such supply furnished; and the undertakers may take off the gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into.

10 & 11 Vict.  
c. 15.

19. Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug, lamp, or other work of the undertakers for supplying gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the undertakers, shall for each such offence forfeit to the undertakers any sum not exceeding five pounds, in addition to the amount of the damage done.

Penalty for wilfully damaging pipes.

20. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the undertakers, or under their control, shall pay such sum of money by way of satisfaction to the undertakers for the damage done, not exceeding five pounds, as any two justices or the sheriff shall think reasonable (a).

Satisfaction for accidentally damaging pipes.

And with respect to the provision for guarding against fouling water, or other nuisance from the gas, be it enacted as follows:

Nuisance from gas.

21. If the undertakers shall at any time cause or suffer to be brought or to flow into any stream, reservoir, or aqueduct, pond, or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, pond, or place for water shall be fouled, the undertakers shall forfeit for every such offence the sum of two hundred pounds (b).

Penalty on undertakers for causing water to be corrupted.

22. The said penalty of two hundred pounds shall be recovered, with full costs of suit, in any of the superior courts, by the person into whose water such washing or other substance shall be conveyed or shall flow, or whose water shall be fouled, by any such act as aforesaid; but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within six months after it shall have ceased.

Penalty to be sued for in superior court within six months.

(z) **Every such offence.**—Where a person was charged with stealing a quantity of gas on a particular day, and the evidence connected the prisoner with the abstraction for several years of gas from the main by a pipe, without its passing through the meter, it was held that the whole of the acts constituted one continuous taking, and that the prosecutors were not called upon to elect to proceed on one particular day, or on any three acts committed within the space of three months under the Larceny Act, 1861 (24 & 25 Vict. c. 96), sec. 16. *Reg. v. Firth*, 1 L. R. C. C. 172; 38 L. J. M. C. 54.

(a) **Liability for damage to pipes.**—Where gas pipes were damaged by a steam roller used for the repair of streets, it was held that the gas company were entitled not only to recover damages for the injury done, but also to have an injunction to restrain the street authority from using steam rollers in such a way as to injure the company's pipes. *Gaslight and Coke Co. v. St. Mary Abbott's, Kensington*, 15 Q. B. D. 1; 54 L. J. Q. B. 414. Under somewhat similar language in sec. 207 of the Met. Man. Act, 1855, *ante*, vol. i., a master was held not to be liable for damages to a lamp post caused accidentally by a driver in his service. *Harding v. Barker*, 53 J. P. 208; 37 W. R. 78.

(b) **Fouling water.**—See also the Metropolis Gas Act, 1860, secs. 51 and 52, *post*, the Waterworks Clauses Act, 1847, secs. 62 to 67, *post*, tit. "Water;" and the Public Hlth. (London) Act, 1891, sec. 52, *ante*, vol. i., containing provisions against causing or suffering water to be fouled by gas washings.

As to penalty, see sec. 25, *post*. Penalties imposed for one and the same offence by several Acts are not cumulative. Gasworks Clauses Acts, 1871, sec. 36; Commercial Gas Act, 1875, sec. 88, *post*. *Parry v. Croydon Commercial Gas and Coke Co.*, 15 C. B. (N. S.) 568; 28 J. P. 86.

A tank belonging to a gas company cracked at the bottom, in consequence of the subsidence of the soil, owing, apparently, to mining operations, and gas washings escaped therefrom, and, percolating the soil, polluted the water of a neighbouring well. It was not shown that there was any negligence on the part of the gas company, either in constructing the tank or otherwise. *Held*, that the company had "suffered" the washings to flow into the well within the meaning of their local Act (8 & 9 Vict. ch. lxvi.). *Hipkins v. Birmingham and Staffordshire Gas Light Co.*, 6 H. & N. 250; 30 L. J. Ex. 60. See also *Ree v. Medley*, 6 C. & P. 292; and *Millington v. Griffiths*, 30 L. T. (N. S.) 65.



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c. 15.

Daily penalty  
during the con-  
tinuance of  
the offence.

Daily penalty  
during escape  
of gas after  
notice.

Penalty if  
water con-  
taminated by  
gas.

Power to  
examine gas  
pipes to ascer-  
tain cause of  
contamination,  
if notice be  
given of the  
same.

Expenses to  
abide result of  
examination.

**23.** In addition to the said penalty of two hundred pounds (and whether such penalty shall have been recovered or not) the undertakers shall forfeit the sum of twenty pounds (to be recovered in the like manner) for each day during which such washing or other substance shall be brought or shall flow as aforesaid, or the act by which such water shall be fouled shall continue after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the undertakers by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby, and such penalty shall be paid to such last-mentioned person.

**24.** Whenever any gas shall escape from any pipe laid down or set up by or belonging to the undertakers, they shall, immediately after receiving notice thereof in writing, prevent such gas from escaping; and in case the undertakers shall not within twenty-four hours next after service of such notice effectually prevent the gas from escaping, and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of five pounds for each day during which the gas shall be suffered to escape after the expiration of twenty-four hours from the service of such notice (c).

**25.** Whenever any water within the limits of the special Act shall be fouled by the gas (d) of the undertakers they shall forfeit to the person whose water shall be so fouled for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

**26.** For the purpose of ascertaining whether such water be fouled by the gas of the undertakers the person to whom the water supposed to be fouled shall belong may dig up the ground and examine the pipes, conduits, and works of the undertakers; Provided that such person, before proceeding so to dig and examine, shall give twenty-four hours' notice in writing to the undertakers of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place where such digging is to take place; and they shall be subject to the like obligation of reinstating the said road and pavement, and the same penalties for delay or any nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the undertakers for the purpose of laying their pipes.

**27.** If, upon any such examination, it appear that such water has been fouled by any gas belonging to the undertakers, the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the undertakers; but if upon such examination it appear that the water has not been fouled by the gas of the undertakers, the person causing such examination to be made shall pay all such expenses, and shall also make good to the undertakers any injury which may be occasioned to their works by such examination.

(c) **Liability for escape of gas.**—A gas company is bound to keep up a proper inspection of its mains, and was held liable for injuries caused by an explosion arising from an escape of gas from its mains which existed for several days, and was discoverable by reason of the smell of the escaped gas. *Mose v. Hastings, &c., Gas Co.*, 4 F. & F. 324. Where a gas company negligently laid down a defective service pipe from which gas escaped, and the servant of a gas fitter employed by the plaintiff negligently entered a room with a lighted candle in order to discover the cause of the escape, it was held that the gas company was liable for the damage caused to the plaintiff's premises, notwithstanding the negligent act of the gas fitter's servant. *Barrows v. March Gas and Coke Co.*, L. R. 7 Ex. 96; 41 L. J. Ex. 46. Owing to excavations by a road authority, a gas pipe was deprived of support, and consequently was cracked, and an explosion occurred, injuring a passer-by. The gas company were unaware of the excavation, of which they had received no notice. *Held*, that the character of the crack in the pipe, the length of time the gas was escaping, and the absence of any one on behalf of the gas company at the time of the excavation, constituted evidence of negligence on their part. *Price v. South Metropolitan Gas Co.*, 65 L. J. Q. B. 126; 12 T. L. R. 31. To the like effect is *Mose v. Hastings and St. Leonards Gas Co.*, 4 F. & F. 324. See also *Holden v. Liverpool New Gas Light Co.*, 3 C. B. 1; 15 L. J. C. P. 301; *Blenkison v. Great Central Gas Consumers' Co.*, 2 F. & F. 437; 3 L. T. (N.S.) 317.

(d) **Fouling water.**—See sec. 21, and note thereto, *ante*.

28. The amount of the expenses of every such examination and repair, and of any injury done to the undertakers, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the same manner as damages for the ascertaining and recovery whereof no special provision is made are to be ascertained and recovered.

29. Nothing in this or the special Act contained shall prevent the undertakers from being liable to an indictment for nuisance (e), or to any other legal proceeding to which they may be liable, in consequence of making or supplying gas.

And with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit, be it enacted as follows:

30. The profits of the undertaking to be divided amongst the undertakers in any year shall not exceed the prescribed rate, or where no rate is prescribed they shall not exceed the rate of ten pounds in the hundred by the year on the paid-up capital in the undertaking, which in such case shall be deemed the prescribed rate, unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said yearly rate (f).

31. *[If profits exceed the amount limited, excess to be invested and form a reserved fund.]*

32. *[Reserved fund not to be resorted to unless to meet an extraordinary claim.]*

33. *[When fund amounts to prescribed sum, interest to be applied to purposes of the undertaking.]*

34. *[If profits are less than the prescribed rate, a sum may be taken from the reserved fund to supply deficiency.]*

35. In *England* . . . the court of quarter sessions . . . may, on the petition of any two gas ratepayers within the limits of the special Act, nominate and appoint some accountant or other competent person (g), not being a proprietor of any gasworks, to examine and ascertain, at the expense of the undertakers (the amount of such expense to be determined by the said court . . .), the actual state and condition of the concerns of the undertakers, and to make report thereof to the said court at the then present or some following sessions . . . and the said court . . . may examine any witnesses upon oath touching the truth of the said accounts and the matters therein referred to; and if it thereupon appear to the said court . . . that the profits of the undertakers for the preceding year have exceeded the prescribed rate, the undertakers shall, in case the whole of the said reserve fund has been and then remains invested as aforesaid, and in case dividends to the amount hereinbefore limited have been paid, make such a rateable reduction in the rate for gas (h) to be furnished by them as in the

10 & 11 Vict.  
c. 15.

How expenses  
to be  
ascertained.

Nothing to  
exempt under-  
takers from  
being indicted  
for a nuisance.

*Profits of the  
company.*

Profits of the  
company  
limited.

If profits are  
more than the  
amount pre-  
scribed, a  
rateable reduc-  
tion to be made  
in the price of  
gas.

(e) **Nuisance.**—In the absence of express statutory authority, a gas company is not justified in causing a nuisance, even if the gas cannot be made of the requisite purity without so doing. *Att.-Gen. v. Gas Light Coke Co.*, 7 Ch. D. 217; 47 L. J. Ch. 534.

(f) **Prescribed profit.**—As to the prescribed rate of profit, and the application of excess profits in the cases of the Commercial, the Gaslight and Coke, and the South Metropolitan Gas Companies, see the Commercial Gas Act, 1875, secs. 62—66, and notes thereto, *post*.

The Wandsworth and Putney Gaslight and Coke Co.'s Act, 1880 (43 & 44 Vict. ch. lxxii.), sec. 5, and secs. 16—19, prescribes the rate of profit, and the application of excess profits with respect to that company. The standard rate of dividend is fixed at 10l. per cent. on the old shares created prior to 1856, and at 7l. 10s. per cent. on the new shares created during or subsequent to that year.

The rate of profit and the application of excess profits in the case of the Crystal Palace District Gas Co. are prescribed by the company's special Act of 1893 (56 & 57 Vict. ch. clxviii.), sec. 8, and secs. 14—16. By that Act the then existing ordinary capital of the company, consisting of 75,000l., with a maximum dividend of 10 per cent., and 275,000l., with a maximum dividend of 7 per cent., was converted into 535,000l. ordinary stock, with a uniform standard dividend of 5 per cent.

In each case the standard dividend rises or falls with the fall or rise of the price of gas, below or above the standard price. See the Commercial Gas Act, 1875, sec. 53, and note thereto, *post*.

(g) **Accountant.**—The court of quarter sessions has no jurisdiction to appoint a gas engineer to assist an accountant appointed under this section. *Reg. v. Brindley*, 50 J. P. 534; 54 L. T. (N. S.) 435.

(h) **Reduction in rate.**—Certain consumers of gas brought an action against a gas company, on the ground that it had created a reserve fund in excess of that authorised



10 & 11 Vict.  
c. 15.

judgment of the said court . . . shall be proper, but so as such rates, when reduced, shall ensure to the undertakers (regard being had to the amount of profit before received) a profit as near as may be to the prescribed rate.

36. [Court may order petitioner to pay costs of groundless petition.]

37. [Penalty on undertakers for refusing to produce books, vouchers, &c.]

38. [Annual account to be made up by undertakers, and sent to the clerk of the peace and to be open to inspection on payment of one shilling.]

39. [Rep. 57 & 58 Vict. c. 56. Statute Law Revision.]

40. [The Railway Clauses Consolidation Act, 1845, as to damages, &c., to be incorporated with this and the special Act (i).]

41. [Rep. 38 & 39 Vict. c. 66. Statute Law Revision.]

42. [All things required to be done by two justices may, in certain cases, be done by one (i).]

43. [Penalties, &c., imposed in respect of offences committed within the metropolitan police district to be paid to the receiver, and applied under 2 & 3 Vict. c. 71 (i).]

44. [Persons giving false evidence liable to penalties of perjury (i).]

45. [Copies of special Act to be kept by undertakers in their office, and deposited with the clerks of the peace, &c., and be open to inspection (i).]

46. [Penalty on undertakers failing to keep or deposit such copies (i).]

47. [Saving as to 57 Geo. 3, ch. xxix., &c. (i).]

48. [Saving rights of the Crown.]

49. [Undertakers not exempted from provisions of any future general Act (i).]

#### GASWORKS CLAUSES ACT, 1871.

34 & 35 Vict. c. 41. An Act to amend the Gasworks Clauses Act, 1847. [13th July, 1878]

10 & 11 Vict.  
c. 15 and this  
Act to be con-  
strued together.  
Short title.

Application of  
Act (k).

1. The Gasworks Clauses Act, 1847, and this Act, shall be construed together as one Act, and the provisions of this Act shall be held to repeal and supersede such of the provisions of that Act as are inconsistent with this Act.

2. This Act may be cited as "The Gasworks Clauses Act, 1871."

3. The provisions of this Act shall apply to every gas undertaking authorised by any special Act hereafter passed, or by any provisional order made under the

and had carried over large undivided profits, thereby avoiding its obligation to reduce the price of gas. *Held* (dissentiente Lord Esher, M. R.), that the question was one for the shareholders only; that no duty was imposed on the company to devote accumulations of undivided profits to the reduction of the price of gas; and that the court could not issue a *mandamus* to compel them to do so. *Mason v. Ashton Gas Co.*, 54 L. T. (N. S.) 708; 50 J. P. 628. The power to order a reduction in the price of gas is absolutely restricted to cases where the whole of the reserved fund has been invested, and the prescribed dividend paid. *Reg. v. Hanley (Recorder of)*, 19 Q. B. D. 481; 56 L. J. M. C. 125. The accountant and the court of quarter sessions have jurisdiction to inquire into the accounts of past years for the purpose of ascertaining the actual condition of the undertaking; but *semble*, that they have no power to disallow and recast them, and by so doing vary the accounts of the year into which they are inquiring. *Ib.* The court has no jurisdiction to order a gas company to pay the petitioners the costs of a successful petition. *Ib.*

(i) Sec. 40, secs. 42–47, and sec. 49 are identical in terms with sec. 85, secs. 87–92, and sec. 93 respectively, of the Waterworks Clauses Act, 1847, *post*, tit. "Water," with the substitution of the word "gasworks" for the word "waterworks," wherever the latter word occurs.

(k) Application of Act.—The Commercial Gas Co. is exempted from the operation of this Act by their special Act of 1875, sec. 3, *post*, but the Act applies to the other companies enumerated in the preamble to the Metropolis Gas Act, 1860, *post*, i.e., now the Gaslight and Coke Co. and the South Metropolitan Gas Co. See *Commercial Gas Co. v. Scott*, L. R. 10 Q. B. 400; 44 L. J. M. C. 171; *South*

authority of the Gas and Water Works Facilities Act, 1870 (*l*), save where the said provisions are expressly varied or excepted by any such special Act or provisional order; and every such special Act and provisional order is in this Act included in the term "the special Act."

34 & 35 Vict.  
c. 41.

4. Terms used in this Act have the same meanings respectively as the same terms have when used in the Gasworks Clauses Act, 1847, and in the Gas and Water Works Facilities Act, 1870.

Interpretation  
of terms.

The term "prescribed" in this Act shall mean prescribed by the special Act:

The term "premises" in this Act shall include house and building:

And the expression "superior courts" or "court of competent jurisdiction" in this Act, or in any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand in respect of which the expression is used were an ordinary simple contract debt and not a debt or demand created by statute.

#### *General Provisions.*

5. The undertakers shall not manufacture gas, or any residual products, except upon lands described in the special Act, and they shall not store gas, except upon those lands, without the previous consent in writing of the owner, lessee, and occupier of every dwelling-house situate within three hundred yards of the limits of the site where such gas is intended to be stored.

Prohibition  
against erecting  
gasworks else-  
where than on  
lands specified  
in schedule.

6. [*Sale of superfluous lands.*]

7. [*Receipts of guardians, &c., to be sufficient discharge.*]

8. [*For appointment of receiver.*]

9. Nothing in this or the special Act shall exonerate the undertakers from any indictment, action, or other proceeding for nuisance in the event of any nuisance being caused by them (*m*).

Undertakers  
not exempted  
from indict-  
ment.

10. [*Power to take easements, &c., by agreement.*]

#### *Supply of Gas to Owners and Occupiers of Premises.*

11. The undertakers shall, upon being required so to do by the owner or occupier (*n*) of any premises situate within twenty-five yards from any main of the undertakers, or such other distance as may be prescribed (*o*), give and continue to give a supply of gas (*p*) for such premises, under such pressure in the main as may be prescribed, and they shall furnish and lay any pipe that may be necessary for such purpose, subject to the conditions following; (that is to say),

Undertakers to  
furnish  
sufficient  
supply of gas to  
owners and  
occupiers with-  
in the limits of  
the special Act.

The cost of so much of any pipe for the supply of gas to any owner or occupier as may be laid upon the property of such owner or in the possession of such occupier, and of so much of any such pipe as may be laid for a greater distance than thirty feet from any pipe of the undertakers, although not on such property, shall be defrayed by such owner or occupier.

*Metropolitan Gas Co. v. Noakes*, 61 L. T. (N. S.) 556; 5 T. L. R. 448; and the South Metropolitan Gas Acts, 1881, sec. 2, and 1882, sec. 2.

The Act is incorporated with the Crystal Palace Dist. Gas Co.'s Act, 1858, sec. 4, and with the Wandsworth and Putney Gas Act, 1880, sec. 3, subject to certain modifications, which, so far as they affect the relations of the companies with the local authorities or the public, are noted under the respective sections.

(*l*) **Gas and Water Works Facilities Act, 1870 (33 & 34 Vict. c. 70).** The Metropolis is expressly excluded from the operation of this Act. *Ib.* sec. 15.

(*m*) **Nuisance.**—See *Att.-Gen v. Gaslight and Coke Co.*, *ante*, p. 903.

(*n*) **Owner or occupier.**—An official receiver is not an "owner or occupier" within the above section, and is not, therefore, entitled to call upon a company to supply him with gas. *Mason, Ex parte, In re Smith* (1893), 1 Q. B. 323; 57 J. P. 72. See also *Paterson v. Gaslight and Coke Co.*, *post*, p. 919.

(*o*) **Distance prescribed.** See the Metropolitan Gas Act, 1860, sec. 14, *post*, as to the companies to which that Act relates.

(*p*) **Shall supply gas.**—As to the power of the Board of Trade to relieve gas undertakers from the obligation to supply gas in any area where a supply of electricity is authorised, see the Electric Lighting Act, 1882, sec. 29, *ante*, tit. "*Electric Lighting*."

As to the liability of gas undertakers for failure to supply gas, see sec. 36, and note thereto, *post*.

34 & 35 Vict.  
c. 41.

Every owner or occupier of premises requiring a supply of gas shall—

Serve a notice upon the undertakers at their office, specifying the premises in respect of which such supply is required, and the day (not being an earlier day than a reasonable time (*g*) after the date of the service of such notice) upon which such supply is required to commence;

Enter into a written contract (*r*) with the undertakers (if required by them so to do) to continue to receive and pay for a supply of gas for a period of at least two years, of such an amount that the rent payable for the same shall not be less than twenty pounds per centum per annum on the outlay incurred by the undertakers in providing any pipe to be provided by them for the purpose of such supply; and

Give to the undertakers (if required by them so to do) security (*s*) for the payment to them of all moneys which may become due to them by such owner or occupier in respect of any pipe to be furnished by the undertakers and in respect of gas to be supplied by them.

Provided always, that the undertakers may, after they have given a supply of gas for any premises, by notice in writing, require the owner or occupier of such premises, within seven days after the date of the service of such notice, to give to them security for the payment of all moneys which may from time to time become due to them in respect of such supply, in case such owner or occupier has not already given such security, or in case any security given has become invalid, or is insufficient, and in case any such owner or occupier fails to comply with the terms of such notice, the undertakers may, if they please, discontinue to supply gas for such premises so long as such failure continues.

Quality of gas.

**12.** The quality of the gas supplied by the undertakers shall, with respect to its illuminating power, be such as to produce at the testing place provided in conformity with this Act a light equal in intensity to that produced by the prescribed number of sperm candles of six in the pound (*t*), and such gas shall as to its purity not exhibit any trace of sulphuretted hydrogen when tested in accordance with the rules prescribed in that behalf in part two of the schedule A. to this Act annexed (*u*).

Undertakers  
may require  
consumers to  
use meters.  
22 & 23 Vict.  
c. 66.

**13.** Every consumer of gas supplied by the undertakers shall, if required to do so by them, consume such gas by a meter duly stamped under the authority of the Sale of Gas Act, 1859, and being a legal meter within the meaning of the said Act, or by a meter supplied or approved by the undertakers: Provided always, that where the provisions of the said Act are in force no meter shall be

(*g*) **Reasonable time.**—The provision of this section as to reasonable time supersedes the provision as to seven days' notice in sec. 17 of the Metrop. Gas Act, 1860, *post*. *South Metropolitan Gas Co. v. Noakes*, *ante*, p. 905.

(*r*) **Contract.**—As to the Commercial Gas Co. see the Commercial Gas Act, 1875, sec. 74, *post*. Contracts for the supply of gas need not be stamped, being contracts for the sale of goods, wares, or merchandise within the meaning of the Stamp Act. *Church v. Gaslight and Coke Co.*, 6 A. & E. 846; 3 N. & P. 35. See also *West Middlesex Waterworks Co. v. Suwerkrop*, *post*, p. 1340.

(*s*) **Security for gas.**—As to the security which may be required by the Commercial, the Gaslight and Coke, and the South Metropolitan Companies, see the Metropolis Gas Act, 1860, secs. 15 and 16, *post*. By their special Act of 1893, sec. 31, the Crystal Palace District Gas Co. are required to pay interest after the rate of 5*l.* per cent. per annum on every 10*s.* deposited as security for every six months during which the same remains in their hands. See also secs. 14 and 16, *post*.

(*t*) **Illuminating power.**—As to the illuminating power required from the Commercial, the Gaslight and Coke, and the South Metropolitan Companies, see the Commercial Gas Act, 1875, sec. 52, and note thereto, *post*.

For the Crystal Palace District Gas Co. the prescribed number of candles is sixteen, and the prescribed burner is Sugg's London Argand, No. 1 burner. 56 & 57 Vict. ch. clxviii., sec. 28. For the Wandsworth and Putney Gaslight, &c., Co., the prescribed number of candles is fourteen, and the prescribed burner is the Argand, having fifteen holes and a seven-inch chimney. 29 & 30 Vict. ch. cclxxv., sec. 14, and 43 & 44 Vict. ch. lxii., sec. 32.

(*u*) **Rules to this Act annexed.**—These rules do not apply to the Commercial, the Gaslight and Coke, and the South Metropolitan Companies. As to testing the illuminating power of gas supplied by those companies, see the Commercial Gas Act, 1875, secs. 22—36, and sec. 52, and notes thereto, and the Gaslight and Coke and other Gas Companies Acts Amend. Act, 1880, and notes thereto, *post*.



used unless the same shall be a legal meter within the meaning of the said Act, and that elsewhere the undertakers shall not refuse to approve of any meter which when duly tested according to the rules contained in the said Act for regulating measures used in sales of gas is found to be correct within the meaning of the said Act.

34 & 35 Vict.  
c. 41.

14. The undertakers shall supply to any owner or occupier of premises within the limits of the special Act requiring the same a meter for registering gas supplied by them: Provided always, that such owner or occupier shall, if required, previous to receiving such meter, give to the undertakers security (x) for payment to them of the price of such meter if he desires to purchase the same, or of the rent of such meter if he desires to hire the same.

Undertakers to  
supply meters.

15. No consumer shall connect any meter with any pipe through which gas is supplied by the undertakers to such meter, or disconnect any meter from any such pipe, unless he shall have given to the undertakers not less than twenty-four hours' notice in writing of his intention so to do, and if any person acts in contravention of this section he shall be liable for each offence to a penalty not exceeding forty shillings (y).

Meters not to  
be connected  
or disconnected  
without notice.

16. Where any owner or occupier is required by the special Act to give security (z) to the undertakers, such security may be by way of deposit or otherwise, and of such amount as he and the undertakers agree on, or as, in default of agreement, may be determined, on the application of either party, by two justices, who may also order by which of the parties the costs of the proceedings before them shall be paid, and the decision of the justices shall be final and binding on all parties.

Nature and  
amount of  
security.

17. Every consumer of gas supplied by the undertakers shall at all times, at his own expense, keep all meters belonging to him whereby any gas of the undertakers is registered in proper order for correctly registering such gas, and in default of his so doing the undertakers may cease to supply gas through such meter. The undertakers shall have access to and be at liberty to take off, remove, test, inspect, and replace any such meter at all reasonable times, such taking off, removal, testing, inspecting, and replacing to be done at the expense of the undertakers if the meter be found in proper order, but otherwise at the expense of the consumer (a).

Consumer to  
keep his meter  
in proper  
order.

18. The undertakers may let for hire any meter (b) for ascertaining the quantity of gas consumed or supplied, and any fittings thereto, for such remuneration in money, and on such terms with respect to the repair of such meter and fittings, and for securing the safety and return to the undertakers of such meter, as may be agreed upon between the hirer and the undertakers, and such remuneration shall be recoverable in the same manner as the rents or sums due to the undertakers for gas, and such meters and fittings (c) shall not be subject to distress, or to the landlord's remedy for rent of the premises where the same may be used, nor to be taken in execution under any process of a court of law or equity, or any proceedings in bankruptcy against the persons in whose possession the same may be.

Power to the  
undertakers to  
let meters.

19. The undertakers shall at all times, at their own expense, keep all meters let for hire by them to any consumer in proper order for correctly registering

Undertakers to  
keep meter let  
for hire in  
repair.

(x) **Security for meter.**—By their special Act of 1880, sec. 33, the Wandsworth and Putney Gaslight and Coke Co. are required to pay 5*l.* per cent. per annum on every 10*s.* deposited as security for the price or rent of a meter, for every six months during which the same remains in their hands.

(y) **Connecting, &c., meters.**—As to the Commercial, the Gaslight and Coke, and the South Metropolitan Gas Companies, see the Commercial Gas Act, 1875, sec. 78, *post*.

(z) **Security.**—See secs. 11 and 14, and notes thereto, *ante*.

(a) **Consumer to keep meter in order.**—As to the Commercial, the Gaslight and Coke, and the South Metropolitan Gas Companies, see the Commercial Gas Act, 1875, sec. 79, and notes thereto, *post*.

(b) **Power to let meters.**—As to the supply of meters by the Commercial, the Gaslight and Coke, and the South Metropolitan Gas Companies, see the Metropolitan Gas Act, 1860, sec. 14, and the Commercial Gas Act, sec. 81, and note thereto, *post*.

(c) **Fittings.**—A gas stove was held to be a "fitting for the gas" within the meaning of the repealed sec. 14 of the Gasworks Clauses Act, 1847. *Gaslight and Coke Co. v. Hardy*, 17 Q. B. D. 619; 56 L. J. Q. B. 168.

34 & 35 Vict.  
c. 41. gas, and in default of their so doing the consumer shall not be liable to pay rent for the same during such time as such default continues. The undertakers shall, for the purposes aforesaid, have access to and be at liberty to remove, test, inspect, and replace any such meter at all reasonable times.

Register of gas  
meters to be  
*prima facie*  
evidence. 20. The register of the meter shall be *prima facie* evidence of the quantity of gas consumed, and in respect of which any rent is charged and sought to be recovered by the undertakers (*d*): Provided always, that if the undertakers and the consumer differ as to the quantity consumed, such difference may be determined, upon the application of either party, by two justices, who may also order by which of the parties the costs of the proceedings before them shall be paid, and the decision of the justices shall be final and binding on all parties.

Power to enter  
buildings for  
ascertaining  
quantities of  
gas consumed. 21. Any officer appointed by the undertakers may at all reasonable times enter any building or land lighted with gas supplied by the undertakers, in order to inspect the meters, fittings, and works for the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall for every such offence forfeit to the undertakers a sum not exceeding five pounds.

Power to  
remove meter  
and fittings. 22. In all cases in which a consumer of gas supplied by the undertakers ceases to require a supply of such gas, and in all cases in which the undertakers are authorised to take away and cut off the supply of gas from any premises, it shall be lawful for the undertakers, their agents or workmen, after twenty-four hours notice in writing, under the hand of the secretary or other properly authorised officer of the undertakers, to the occupier, or if unoccupied, then to the owner or lessee, or to the agent of the owner, or lessee, of any premises in which any pipes, meters, fittings, or apparatus belonging to the undertakers are laid or fixed, and through or in which the supply of gas is from any such cause discontinued, to enter such premises between the hours of nine in the morning and four in the evening, for the purpose of removing and to remove such pipes, meters, fittings, or apparatus, repairing all damage caused by such entry or removal (*e*).

Recovery of  
charges for gas. 23. In case any person who shall have been supplied with gas by the undertakers shall neglect or refuse to pay the amount due in respect of such supply, any justice may issue his summons to such person, requiring him to appear at a time and place named therein, and then and there to show cause why the sum so demanded should not be paid; and if on the appearance of such person, or in default of appearance after proof of the service of the summons, either personally or at the last known place of abode or of business of such person, no sufficient cause can be shown to the contrary, any justice may issue his warrant of distress for the seizure and sale of the goods and chattels of such person, for the recovery of the amount which may be proved before such justice to be due from such person, together with such costs, including the cost of cutting off the gas, if the same shall have been cut off by the undertakers, as to such justice shall seem just and reasonable (*f*).

#### *Supply of Gas to Local Authorities.*

Supply and  
price of gas to  
public lamps. 24. The undertakers shall supply gas to any public lamps within the distance of fifty yards from any of the mains of the undertakers in such quantities as the local authority of each district . . . or any highway board within the limits of the special Act may from time to time require to be supplied, and the price to be charged by the undertakers and to be paid to them for all gas so supplied shall be settled by agreement between the local authorities and the undertakers, and in

(*d*) **Meter *prima facie* evidence.**—As to the Commercial, the Gaslight and Coke, and the South Metropolitan Companies, see the Commercial Gas Act, 1875, sec. 87, and notes thereto, *post*.

(*e*) **Removal of fittings.**—As to the Commercial, the Gaslight and Coke, and the South Metropolitan Companies, see the Commercial Gas Act, 1875, sec. 80, and note thereto, *post*.

(*f*) **Recovery of charges.** As to the Commercial, the Gaslight and Coke, and the South Metropolitan Companies, see the Commercial Gas Act, 1875, sec. 85, and note thereto, *post*.

case of difference by arbitration, regard being had to the circumstances of the case and the prices charged to private consumers in the district (*g*).

**25.** The gas supplied to the public lamps within the limits of the special Act shall be consumed by meter, at the option either of the local authority of the district or the undertakers, and in case of its being consumed by meter the meter shall be provided and fixed by the undertakers, and be paid for by the party requiring it (*h*).

If the gas is supplied to the public lamps in any district by average meter indication, the undertakers shall, for securing uniformity of consumption between metered and unmetered lamps, from time to time provide the public lamps in such district with proper self-acting pressure regulators and burners to the satisfaction of the local authority of such district; and the average amount of the indications of all the meters attached to the public lamps within such district under the control of the local authority shall, except as hereinafter mentioned, be deemed to be the amount consumed by each such lamp in such district.

**26.** In case gas is supplied to the public lamps in any district by the undertakers, they or the local authority of such district may, at their own expense, cause to be affixed to each lamp the instrument known as a street lamp governor, and the undertakers or such local authority (as the case requires) shall be entitled to have access thereto for the purpose of examining the same (*i*).

**27.** Any difference which may arise between the undertakers and any local authority in relation to the supply or consumption of gas to or by such local authority shall be from time to time settled by arbitration in manner provided by "The Companies Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration (*k*).

#### *Testing of Gas (l).*

**28.** The undertakers shall cause to be provided, at the place prescribed and within the prescribed time, a testing place, with apparatus therein, for the purposes following, or such of them as may be prescribed by the special Act; that is to say—

1. For testing the illuminating power of the gas supplied:

2. For testing the presence of sulphuretted hydrogen in the gas supplied.

The said apparatus shall be in accordance with the regulations prescribed in part one of the schedule A. to this Act annexed, or according to such rules as may from time to time be substituted in lieu thereof by any special Act, and shall be

34 & 35 Vict.  
c. 41.

As to consumption of gas supplied to the public lamps.

Governors for street lamps.

For settlement of differences between the undertakers and the local authority.

Testing place.

(*g*) **Price for public lamps.**—As to the Commercial, the Gaslight and Coke, and the South Metropolitan Gas Companies, see the Commercial Gas Act, 1875, sec. 69, and note thereto, *post*. By their special Act of 1893, sec. 18, the Crystal Palace District Gas Co. are required not to charge a higher price to any local authority than the lowest price charged by them to private consumers. The present section applies to the Wandsworth and Putney Gaslight and Coke Co., repealing and superseding sec. 18 of their special Act of 1866. See sec. 3 of their special Act of 1880.

Where, by their special Acts, a gas company were required to supply gas to the public lamps at a certain annual sum per lamp, it was held that the local authority were bound to pay the fixed annual sum notwithstanding that during certain months, in consequence of frost, there had been an insufficient supply. *Richmond Gas Co. and Mayor, &c., of Richmond, In re* (1893), 1 Q. B. 56; 62 L. J. Q. B. 172.

(*h*) **Consumption by public lamps.**—As to the Commercial, the Gaslight and Coke, and the South Metropolitan companies, see the Commercial Act, 1875, sec. 84 and note thereto, *post*.

(*i*) **Governors for street lamps.**—As to the Commercial, the Gaslight and Coke, and the South Metropolitan Companies, see the Commercial Gas Act, 1875, sec. 68, and note thereto, *post*.

(*k*) **Arbitration.**—See the Metropolis Gas Act, 1860, sec. 38, *post*, and the Commercial Gas Act, 1875, sec. 69, *post*, as to arbitration with the South Metropolitan Gas Co. and the Commercial Gas Co. respectively.

(*l*) **Testing of gas.**—As to the Commercial, the Gaslight and Coke, and the South Metropolitan Companies, see the Commercial Gas Act, secs. 22 *et seq.*, and notes thereto, and the Gaslight and Coke, &c., Amend. Act, 1880, *post*. As a result of those provisions, secs. 28 to 34 and sec. 37 of the present Act do not apply to those companies.



34 & 35 Vict.  
c. 41.

so situated and arranged as to be used for the purpose of testing the illuminating power and purity of the gas supplied by the undertakers, and the undertakers shall at all times thereafter keep and maintain such testing place and apparatus in good repair and working order.

Appointment  
and powers  
of gas  
examiners.

**29.** The local authority of any district within the limits of the special Act, where the gas is not supplied by such local authority, may after the passing of the special Act from time to time appoint, or may appoint and keep appointed, a competent and impartial person to be a gas examiner to test the gas at the testing place provided in conformity with the provisions of this Act; and such gas examiner may there test the illuminating power and purity of the gas supplied by the undertakers, on any or every day between the hours of five o'clock and ten o'clock in the afternoon from the first day of October to the thirty-first day of March, both inclusive, and on any or every day between the hours of eight o'clock and eleven o'clock in the afternoon from the first day of April to the thirtieth day of September, both inclusive.

Two justices  
may appoint  
gas examiner.

**30.** Where no such gas examiner is appointed, or where the testing of the gas is imperfectly attended to by the local authority, two justices, on the application of consumers of the gas of the undertakers, not being less than five, by order in writing may appoint some competent and impartial person to be gas examiner, and such person may at any time within the hours aforesaid, on producing the said order, enter on the premises of the undertakers, and there test the illuminating power and purity of the gas supplied by them.

Representation  
of undertakers.

**31.** The undertakers may, if they think fit, on each occasion of the testing of the gas by the gas examiner, be represented by some officer, but such officer shall not interfere in the testing.

Mode of  
testing.

**32.** Any test taken in pursuance of this Act shall be taken in accordance with the rules prescribed in part two of the schedule A. to this Act annexed.

Report of gas  
examiner.

**33.** The gas examiner shall, on the day immediately following that on which the testing of the illuminating power or purity of the gas has been conducted, make and deliver a report of the results of his testing to the local authority or justices by whom he was appointed, and to the undertakers, and such report shall be receivable in evidence.

Access to  
testing place.

**34.** The undertakers shall give to the gas examiner and to his assistants, and to every local authority within the limits of the special Act and their agents, access to the testing place, and shall afford all facilities for the proper execution of this Act; and in case the undertakers make default in complying with any of the provisions of this section they shall for every such default be liable to a penalty not exceeding five pounds to the local authority or to the persons making the application.

#### *Accounts.*

Accounts, &c.

**35.** The undertakers shall fill up and forward to the local authority of every district within the limits of the special Act, on or before the twenty-fifth day of March in each year, an annual statement of accounts, made up to the thirty-first day of December then next preceding, as near as may be in the form and containing the particulars specified in the schedule B. to this Act annexed.

The undertakers shall keep copies of such annual statement at their office, and sell the same to any applicant at a price not exceeding one shilling for each such copy.

The Board of Trade, with the consent of the undertakers, may alter the said forms for the purpose of adapting them to the circumstances of the undertaking, or of better carrying into effect the objects of this section.

In case the undertakers make default in complying with the provisions of this section they shall be liable to a penalty not exceeding forty shillings for each day during which such default continues.

#### *Penalties.*

Penalty for  
failure to  
supply gas.

**36.** Whenever the undertakers neglect or refuse to give a supply of gas to any owner or occupier of premises within the limits of the special Act entitled to the

same, under such pressure as is prescribed (*m*), they shall be liable to a penalty not exceeding forty shillings for each day during which such default continues (*n*). 34 & 35 Vict. c. 41.

Whenever the undertakers neglect or refuse to supply gas as by this Act required to all or any of the public lamps in accordance with the provisions of this Act, they shall be liable to a penalty not exceeding forty shillings for each default.

If it shall be proved to the satisfaction of any two justices, not being shareholders in the undertaking, after hearing the parties, that on any day the gas supplied by the undertakers is under less pressure, of less illuminating power, or of less purity than it ought to be according to the provisions of this or the special Act, the undertakers shall in every such case forfeit and pay to the local authority or other persons making application for testing the gas such sum not exceeding twenty pounds as the justices shall determine.

Penalties imposed on the undertakers for one and the same offence by several Acts of Parliament shall not be cumulative, and for such purpose the special Act and the Acts incorporated therewith shall be deemed several Acts.

Penalties not cumulative.

37. Where the gas examiner is appointed by the justices as aforesaid, the costs of and attending such experiment, including the remuneration to be paid to the person making the same, and the costs of the proceedings before the justices, shall be ascertained by such justices, and in the event of any penalty being imposed on the undertakers shall be paid, together with such penalty, by the undertakers, but in the event of no penalty being imposed the costs shall be in the discretion of the justices.

Cost of experiment to be paid according to event.

38. Every person who wilfully, fraudulently, or by culpable negligence injures or suffers to be injured any pipes, meter, or fittings belonging to the undertakers, or alters the index to any meter, or prevents any meter from duly registering the quantity of gas supplied, or fraudulently abstracts, consumes, or uses gas of the undertakers, shall (without prejudice to any other right or remedy for the protection of the undertakers or the punishment of the offender) for every such offence forfeit and pay to the undertakers a sum not exceeding five pounds, and the undertakers may in addition thereto recover the amount of any damage by them sustained; and in any case in which any person has wilfully or fraudulently injured or suffered to be injured any pipes, meter, or fittings belonging to the undertakers, or altered the index to any meter, or prevented any meter from duly registering the quantity of gas supplied, the undertakers may also, until the matter complained of has been remedied, but no longer, discontinue the supply of gas to the person so offending (notwithstanding any contract previously existing); and the existence of artificial means for causing such alteration or prevention, or for abstracting, consuming, or using gas of undertakers, when such meter is under the custody or control of the consumer, shall be *prima facie* evidence that such alteration, prevention, abstraction, or consumption, as the case may be, has been fraudulently, knowingly, and wilfully caused by the consumer using such meter (*o*).

Penalty for injuring meters.

(*m*) **Pressure prescribed.**—As to the Commercial, the Gaslight and Coke, and the South Metropolitan Companies, see the Commercial Gas Act, 1875, sec. 71, and note thereto, *post*.

By the Wandsworth and Putney Gas Act, 1880, sec. 31, and the Crystal Palace District Gas Act, 1893, sec. 26, it is provided as to those two companies respectively that the gas shall be supplied at such a pressure "as to balance a column of water from midnight to sunset not less than six-tenths of an inch, and from sunset to midnight not less than eight-tenths of an inch in height at the main, as near as may be to the junction to the service pipe supplying the consumer." And any examiner appointed under the present Act may, subject to the terms of his appointment, from time to time test the pressure at which the gas is supplied, on giving previous notice to the company. *Id.*

(*n*) **Liability for failure to supply gas.**—This section applies to a case where a gas company improperly cuts off the supply. *Commercial Gas Co. v. Scott*, L. R. 10 Q. B. 400; 44 L. J. M. C. 171. An action by a consumer will not lie against a gas company for failure to give a supply of gas sufficient in amount and purity. The consumer's only remedy is to proceed for penalties. *Clegg v. Earby* (1896) 1 Q. B. 592; 65 L. J. Q. B. 339.

(*o*) **Injuring meters.**—As to the Commercial, the Gaslight and Coke, and the South Metropolitan Companies, see the Commercial Gas Act, 1875, sec. 82, and notes thereto, *post*.

34 & 35 Vict.  
c. 41.

Incoming  
tenants not  
liable to pay  
arrears of gas  
rents, &c.

Recovery of  
rents, &c.

Recovery of  
sums due to  
undertakers.

Contents of  
summons  
or warrant.

Warrant of  
distress shall  
include costs.

Summary  
proceedings  
for offences,  
penalties, &c.

Service of  
notice by  
undertakers.

Liability to gas  
rent not to  
disqualify  
justices from  
acting.

### *Recovery of Gas Rents.*

**39.** In case any consumer of gas supplied by the undertakers leaves the premises where such gas has been supplied to him without paying the gas rent or meter rent due from him, the undertakers shall not be entitled to require from the next tenant of such premises the payment of the arrears left unpaid by the former tenant, unless such incoming tenant has undertaken with the former tenant to pay or exonerate him from the payment of such arrears (*p*).

**40.** If any person supplied with gas or with any gas meter or fittings by the undertakers neglects to pay to the undertakers the rent due for such gas or the rent or money due to the undertakers for the hire or fixing of such meter, or any expenses lawfully incurred by the undertakers in cutting off the gas from the premises of such person, the undertakers may recover the sum so due in like manner as a penalty under this Act (*q*).

**41.** Whenever any person neglects to pay any rent or sum due and payable by him to the undertakers, the undertakers may recover the same, with full costs of suit, in any court of competent jurisdiction, and the remedy of the undertakers under this enactment shall be in addition to their other remedies for the recovery of such rent or sum (*r*).

### *Legal Proceedings.*

**42.** Any summons or warrant issued for any of the purposes of this Act may contain, in the body thereof or in a schedule thereto, several names and several sums.

**43.** Any justice who issues a warrant of distress in pursuance of the provisions of this Act may order that the costs of the proceedings for the recovery of the money to be levied shall be paid by the person liable to pay such money, and such costs shall be ascertained by the justice, and shall be included in the warrant of distress for the recovery of such money.

**44.** All offences and penalties under this Act, and all money forfeited, and all money and costs by this Act directed to be recovered as penalties, may be prosecuted and recovered in manner directed by "The Gasworks Clauses Act, 1847," with respect to the recovery of penalties (*q*).

**45.** Every notice which the undertakers are by this Act required to serve upon any person shall be served by being delivered to the person for whom it is intended, or by being left at his usual or last known place of abode, or sent by post addressed to such persons, or if such person or his address be not known to the undertakers, and cannot after due inquiry be found or ascertained, then by being affixed for three days to some conspicuous part of the premises to which such notice relates.

**46.** No justice or judge of any county court or quarter sessions shall be disqualified from acting in the execution of this Act by reason of his being liable to the payment of any gas rent or other charge under this Act.

### SCHEDULE A. (*s*).

#### PART I.

#### *Regulations in respect of testing apparatus.*

1. *The apparatus for testing the illuminating power of the gas* shall consist of the improved form of Bunsen's photometer, known as Letheby's open 60-inch photometer, or Evans' enclosed 100-inch photometer, together with a proper meter, minute clock, governor, pressure gauge, and balance.

(*p*) **Arrears.**—Compare this section with sec. 39 of the Metropolis Gas Act, 1860, *post*, and see cases in note thereto.

(*q*) **Recovery of penalties.**—See the Gasworks Clauses Act, 1847, secs. 40—44, *ante*.

(*r*) **Recovery of sums due.**—As to the Commercial, the Gaslight and Coke, and the South Metropolitan Companies, see the Commercial Gas Act, 1875, sec. 86, *post*.

(*s*) **Testing of gas.**—As to the Commercial, the Gaslight and Coke, and the South Metropolitan Companies, see the Commercial Gas Act, 1875, secs. 22 *et seq.*, and notes thereto, and the Gaslight and Coke, &c., Amend. Act, 1880, *post*.



*The burner* to be used for testing the gas shall be such as shall be prescribed. 34 & 35 Vict.  
*The candles* used for testing the gas shall be sperm candles of six to the pound, c. 41.  
 and two candles shall be used together.

2. *The apparatus*—

(a) *For testing the presence in the gas of sulphuretted hydrogen*.—A glass vessel containing a strip of bibulous paper moistened with a solution of acetate of lead, containing sixty grains of crystallised acetate of lead dissolved in one fluid ounce of water.

PART II.

*Rules as to mode of testing gas.*

I. *Mode of testing for illuminating power.*

The gas in the photometer is to be lighted at least fifteen minutes before the testings begin, and it is to be kept continuously burning from the beginning to the end of the tests.

Each testing shall include ten observations of the photometer made at intervals of a minute.

The consumption of the gas is to be carefully adjusted to five cubic feet per hour.

The candles are to be lighted at least ten minutes before beginning each testing, so as to arrive at their normal rate of burning, which is shown when the wick is slightly bent and the tip glowing. The standard rate of consumption for the candles shall be 120 grains each per hour. Before and after making each set of ten observations of the photometer the gas examiner shall weigh the candles, and if the combustion shall have been more or less per candle than 120 grains per hour he shall make and record the calculations requisite to neutralise the effects of this difference.

The average of each set of ten observations is to be taken as representing the illuminating power of that testing.

II. *Mode of testing.*

(a) *For sulphuretted hydrogen*.—The gas shall be passed through the glass vessel containing the strip of bibulous paper moistened with the solution of acetate of lead for a period of three minutes, or such longer period as may be prescribed; and if any discolouration of the test paper is found to have taken place, this is to be held conclusive as to the presence of sulphuretted hydrogen in the gas.

SCHEDULE B.

[*Form of Annual Accounts.*]

METROPOLIS GAS ACT, 1860.

23 & 24 Vict. c. 125. An Act for better regulating the Supply of Gas to the Metropolis. [28th August, 1860]

Whereas the following Gas Companies (that is to say), "The Gaslight and Coke Company," "The City of London Gaslight and Coke Company," "The Commercial Gaslight and Coke Company," "The Equitable Gaslight Company," "The Great Central Gas Consumers' Company," "The Independent Gaslight and Coke Company," "The London Gaslight Company," "The Phoenix Gaslight and Coke Company," "The Ratcliff Gaslight and Coke Company," "The Surrey Consumers' Gas Company," "The South Metropolitan Gaslight and Coke Company," "The Western Gaslight Company (Limited)," "The Imperial Gaslight and Coke Company," or some of them, are respectively incorporated under the authority of Parliament for the purpose of supplying

23 & 24 Vict.  
c. 125.

several districts of the Metropolis with gas (*t*); and the said companies, instead of supplying gas by several mains in the same district, have agreed, as far as possible, each one to confine its supply to a separate district, in order to economise capital and to avoid the too frequent opening of the public streets; and, subject to the provisions and restrictions of this Act, it is expedient that such districting should receive the sanction of Parliament: And whereas the regulations to which those companies are subject are not uniform: And whereas it is expedient that provision be made for the due regulation of all companies and persons supplying gas within the Metropolis: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; that is to say—

Short title.

1. This Act may for all purposes be cited as “Metropolis Gas Act, 1860.”

10 & 11 Vict.  
c. 15, incor-  
porated with  
this Act.

2. “The Gasworks Clauses Act, 1847” (except so far as the provisions thereof are inconsistent with this Act) is incorporated with and forms part of this Act (*u*), and shall apply to the several companies before named or referred to as fully as if the gasworks of the several companies were authorised by this Act; and the expression “undertakers” in the recited Act shall be held to apply to every gas company affected by this Act; but it shall not be lawful for any gas company, by the application of any of their profits or funds, to make up to the prescribed rate, or the rate of ten pounds per centum per annum where no such rate shall be prescribed, any dividend which shall have been payable more than six years previously; Provided that the powers vested in the justices by the said Act shall be exercised by a magistrate.

Companies  
and persons  
to whom Act  
applies.  
Interpretation  
of terms.

3. This Act applies to the several gas companies, and to all persons already or hereafter supplying gas within the Metropolis, except as hereinafter excepted.

4. In the construction of this Act the following words and expressions have the following meanings, unless excluded by the subject or context; that is to say—

The expression “gas company” or “gas companies” means and includes any and every company, and any person or persons, supplying gas within the limits of this Act:

The expression “local authority” includes the *Metropolitan Board of Works* (*x*), vestries, and district boards appointed under the *Metropolis Management Act, 1855*.

The word “inspector” or “inspectors” shall mean any metropolitan gas inspector or inspectors to be appointed under this Act:

The word “consumer” means a person receiving or entitled, in accordance with this Act, to receive a supply of gas from any gas company:

The word “the Metropolis” has the same meaning as in the said *Metropolis Management Act, 1855* (*y*).

The word “district” means, with respect to every gas company supplying gas wholly or in part within the Metropolis, the district, so far as it is

18 & 19 Vict.  
c. 120.

(*t*) **Companies incorporated.**—Since the passing of this Act, the City of London, Equitable, Great Central, Independent, London, Western, and Imperial Gas, &c.. Companies have been amalgamated with the Gaslight and Coke Company; the Ratcliff Gaslight, &c., Company has been amalgamated with the Commercial Gaslight and Coke Company; and the Phoenix and Surrey Consumers' Gas Companies have been amalgamated with the South Metropolitan Gaslight and Coke Company. For list of special Acts of these companies, see note (*p*) *ante*, p. 896.

(*u*) **Gasworks Clauses Act, 1847** (*ante*).—This section is repealed “so far as it incorporates the provisions of the Gasworks Clauses Act, 1847, with respect to the amount of profit to be received by the undertakers from the gasworks carried on for their benefit or imposes any restriction in respect of the rate of dividend,” by the City of London Gas Act, 1868 (31 & 32 Vict. ch. cxxv.), as to the City, and by the South Metropolitan Gaslight and Coke Company's Act, 1869 (32 & 33 Vict. ch. cxxx.), sec. 4; the Commercial Gas Act, 1875 (38 & 39 Vict. ch. cc.), sec. 3; and the Gaslight and Coke Company's Act, 1876 (39 & 40 Vict. ch. cxxxv.), as to those three companies.

(*x*) **Met. Bd. Wks.**—Now the London County Council. *Loc. Govt. Act, 1888*, sec. 40 (8), *ante*, vol. i.

(*y*) **The Metropolis** is defined by sec. 250 of the *Met. Man. Act, 1855*, *ante*.

23 & 24 Vict.  
c. 125.

within the Metropolis, within which the gas company are from time to time authorised to supply gas, and means, with respect to any person or persons not being a gas company, but supplying gas wholly or in part within the Metropolis, the district within the Metropolis within which he or they shall from time to time as a trade or business supply gas :

The word "street" includes square, court, alley, highway, lane, road, thoroughfare, and public passage or place :

The word "premises" includes public and private messuages, and other buildings, lands, and tenements whatsoever :

The word "the gasworks" means the works of the respective gas companies, and the works connected therewith :

The word "rate" includes all rents and other payments for a supply of gas :

The words "meter rent" include all rents and other payments for the use of gas meters :

The word "magistrate" means any police or stipendiary magistrate acting in and for the district of the Metropolis in which the matter referred to him arises, and in the City of London and the liberties thereof shall mean any justice of the peace for the City of London and the liberties thereof :

The words "common gas" shall mean gas of an illuminating power herein-after defined of not less than twelve candles(z) :

The words "cannel gas" shall mean gas of an illuminating power herein-after defined of not less than twenty candles(z) :

5. The limits of this Act shall be the Metropolis: Provided always, that this Act and the several clauses and provisions thereof shall not extend or apply or be construed to extend or apply to the several gas companies set forth and enumerated in the schedule annexed to this Act; Provided also, that the districts severally specified and described in the Acts and instrument of incorporation respectively mentioned in the said schedule, or within which the said companies or any of them are now supplying gas (notwithstanding the said districts, or any portions thereof, are or may be within the limits of the Metropolis as defined by this Act), shall not be included or deemed to be included in the expression "the Metropolis," or any extension thereof which may hereafter be made, under the provisions of the hereinbefore mentioned Act of the eighteenth and nineteenth Victoria, chapter one hundred and twenty; Provided also, that if the said companies or any of them shall supply gas in parts of the Metropolis other than those within their respective districts as defined in the said schedule, then the provisions of this Act shall be held to apply to such companies respectively so far only as regards such extended limits as may be within the Metropolis.

Limits of Act.

6. The limits of each of the said companies shall be the respective districts supplied with gas by such companies as the same are defined upon four duplicate maps, signed by the Right Honourable Thomas Henry Sutton Sotheron Estcourt, and which maps have been severally deposited with the respective clerks of the peace for the counties of Middlesex, London, Surrey, and Kent (a); Provided that at the expiration of three years next after the passing of this Act, and of every three years thereafter, *Her Majesty's principal Secretary of State for the Home Department for the time being* (b) may, either upon the application and with the consent of any two or more of the said gas companies whose districts adjoin one another, make any alteration in the boundaries of such districts, or upon

Sanctioning assignment of districts to gas companies to be subject to triennial revision.

(z) "**Common gas.**" "**Cannel gas.**"—The above definitions of these expressions are repealed by the Commercial Gas Act, 1875, sec. 3, and the Gaslight and Coke Company's Act, 1876, sec. 8, as to those companies.

(a) **Limits to be respective districts.**—A gas company is prohibited by this section from supplying a consumer with gas for consumption on premises within the district of another company, notwithstanding that the meter through which the supply passes is on a part of the consumer's property which is within the district of the first mentioned company. *Gaslight and Coke Co. v. South Metropolitan Gas Co.*, 62 L. J. Ch. 123; 54 J. P. 373. See also *Imperial Gaslight Co. v. West London Junction Gas Co.*, *post*, p. 922.

(b) **Secretary of State.**—The Board of Trade is substituted throughout this Act for the Home Secretary as to all the companies mentioned in the preamble to this Act, by the City of London Gas Act, 1868, sec. 3; and by the South Metropolitan Gaslight and Coke Co.'s Act, 1869, sec. 4, and the Commercial Gas Act, 1875, sec. 3, as to those two companies.



23 & 24 Vict.  
c. 125.

the application of any local authority, or upon the requisition of not less than twenty gas consumers within any district or districts proposed to be affected, and upon proof to his satisfaction being given that any of the said gas companies are not in a condition adequately to supply with gas their respective districts, or have substantially failed to fulfil the obligations imposed by this Act, may make such alterations in the boundaries of such districts, or admit any new company respectively, as he thinks proper; and all such alterations shall be certified on one or more maps, to be signed by the said *Secretary of State* (c) and deposited with one or more of the said clerks of the peace; and such last-mentioned map or maps shall be binding on all parties, and the provisions of this Act shall be held to apply to the several districts, when so altered, and to the several companies affected thereby, as fully and effectually as if no alteration in such districts had been made, and no other company or person than the company to whom such limits are for the time being assigned or shall hereafter be assigned shall supply gas for sale within the said limits, unless authorised by Parliament so to do; Provided that before proceeding to consider the necessity for altering any of the said districts the said *Secretary of State* (c) shall cause at least one month's notice to be given of such application to all parties interested therein or affected thereby, and such notice shall state the day and hour when and the place where such application will be considered; and notices to be given to any gas company shall be left with the secretary or some other principal officer of the company, and notices to be given to any local authority shall be left with the clerk or some other principal officer of the said local authority.

**7—12.** [*Repealed by the City Gas Act, 1868, sec. 3, as to the City; and by the South Metropolitan Gaslight and Coke Co.'s Act, 1869, sec. 4; the Commercial Gas Act, 1875, sec. 3; and the Gaslight and Coke Co.'s Act, 1876, sec. 8, so far as relates to those three companies.*]

Cost of  
altering  
district.

**13.** All the costs, charges, and expenses of and incident to any inquiry and decision of the said *Secretary of State* (c) under this Act shall from time to time be borne and paid by such parties as the said *Secretary of State* shall direct, and such decision may, upon an ex-parte application, be made a rule of any of Her Majesty's superior courts of law at Westminster.

Gas companies  
to provide  
pipes and  
supply gas and  
meters at pre-  
scribed rents.

**14.** Every gas company from time to time supplying gas within any district shall, as to any premises or street within such district not already supplied with gas, and which shall lie within fifty yards of any existing mains, at their own expense, on being required by the owner or occupier of any premises within the district or in part within the district, who shall contract for not less than two years to pay gas rates in respect of such supply to an amount equal to twenty per cent. upon the outlay, provide and lay all proper and sufficient communication, service, and other pipes up to the premises of such owner or occupier to communicate with the gas company's mains, and shall, if so required by the owner, occupier, or local authority, furnish him or them, at the rate prescribed by this Act, with a supply of gas for the purpose of being used in or on the premises (d), or for lighting the street, and if so required by the owner or occupier, furnish him with one or more meters for ascertaining the quantity of gas consumed; Provided that the gas company shall not be bound to supply more than one meter for each consumer occupying a separate dwelling or apartment, nor any meter exceeding a five-light meter; Provided also, that the meter rent which the said company shall be entitled to claim for such meter shall not exceed ten per cent. on the net cost of such meter (e) . . .

Security to be  
given to gas  
company, if  
required.

**15.** Provided that the owner or occupier (f), if so required in writing by the gas company or any of their officers, shall, before he is entitled to have the pipes

(c) *Secretary of State.*—See note (b) on page 915.

(d) *Gas companies to provide pipes, &c.*—The South Metropolitan and the Commercial Gas Companies cannot be compelled to lay on gas for any stable or other outbuilding where the company do not supply gas to the house, unless the person requiring it agrees that the consumption of gas shall be at the rate of at least ten shillings per annum, or pay the expense of service pipe and meter. South Metropolitan Gas Act, 1869, sec. 73; and the Commercial Gas Act, 1875, sec. 75, *post*. See also sec. 11 of the Gasworks Clauses Act, 1871, *ante*.

(e) *Section 14.*—The remainder of this section is repealed by 38 & 39 Vict. c. 66 (Statute Law Revision).

(f) *Owner or occupier.*—The provisions of secs. 15 and 16 are extended to any

provided and laid, or to have a supply of gas or of meters furnished, give to the gas company such security for the payment of the rate for the gas to be supplied to him, and of the meter rent for every meter to be supplied to him, as he and the gas company agree on.

23 & 24 Vict.  
c. 125.

16. Provided that if the owner or occupier (*g*) and the gas company cannot agree thereon, the security to be given shall be determined by a magistrate; and any single magistrate shall, on the application of the owner or occupier and the gas company, or either of them, determine the nature and amount of the security to be given; and the security may, as the magistrate thinks fit, be the deposit with the gas company, or with any person approved by the magistrate, or the prepayment to the gas company, of a sum of money or any other security which the magistrate thinks sufficient and reasonable; and the determination of the magistrate shall be binding on all parties, and final: Provided that if the security be the deposit with the gas company of a sum of money, the gas company shall pay interest thereon to the consumer at such rate as the magistrate shall determine.

Differences as to security to be determined by a magistrate.

17. If the gas company, not being entitled to require or not having required any security, wilfully fail for seven days (*h*) after being thereunto required in writing by the consumer, or where the security agreed on or determined by the magistrate is given, shall wilfully fail for fourteen days thereafter to provide and lay all proper and sufficient communication, service, and other pipes, or to furnish a supply of gas, or to furnish any meter, pursuant to the provisions of this Act, then and in every such case the gas company shall, on a summary conviction before a magistrate, forfeit and pay to the consumer not exceeding forty shillings for every day after the expiration of seven or fourteen days respectively during which the failure continues.

Penalty on gas company failing to provide pipes or supply of gas or meters.

18. Provided that every private consumer shall, if so required in writing by the gas company, consume the gas by meter, but any consumer may, if he thinks fit, provide his own meter.

Gas to be consumed by meter if required by companies. Gas companies may contract for supply.

19. Subject to the provisions of this Act, every gas company, from time to time, may enter into any contract with any owner, occupier, or local authority for all or any of the following purposes; that is to say, for supplying him or them with gas, and with pipes, burners, meters, lamp, lamp posts, and other apparatus, and for the repair and cleansing and for the lighting and extinguishing thereof, in such manner and on such terms and conditions as the parties agree.

20. Provided that, notwithstanding its being required by any Act of Parliament or otherwise that the gas company's contracts shall be under seal, every contract of the gas company entered into in accordance with this Act shall without seal be binding on them, if the contract be signed by at least two of their directors, or by their secretary or other officer by the authority of at least two of their directors.

Contracts valid though not under seal.

21. Provided that no contract for any of those purposes shall contain any term or condition contrary to any of the provisions of this Act, or for giving in case of difference the sole arbitrament thereon to the gas company or any officer or person who is or has been employed by them, or who may have a pecuniary interest in such company, or for requiring any notice by a consumer discontinuing his supply of gas or meter, which shall make him liable to pay more than one month's rate or meter rent after the time of the service of the notice,

Restrictions on contracts with gas companies.

person who succeeds a tenant in the occupation of any premises where at the time of such person's entering into possession gas was consumed, who desires to continue to use the gas of the Commercial Company. Commercial Gas Act, 1875, sec. 77, *post*. And a very similar extension is contained in sec. 72 of the South Metropolitan Gas Act, 1869. But an incoming tenant is not liable for arrears due from a preceding tenant, unless by express agreement. Sec. 39 of the present Act, *post*.

(*g*) **Owner or occupier.**—See note (*f*) on page 916.

(*h*) **Seven days.**—The provision of this Act as to seven days' notice is superseded by the provision in sec. 11 of the Gasworks Clauses Act, 1871, *ante*, so far as relates to the companies to which that Act applies, so that such companies are bound to supply gas within a "reasonable time" after notice from a consumer, and are not entitled to seven days' notice under the present section. *South Metropolitan Gas Co. v. Noakes*, 61 L. T. (N. S.) 556; 5 T. L. R. 448. As to the companies to which the Act of 1871 applies, see note to sec. 2 of that Act, *ante*.

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c. 125.

Gas companies  
to light streets  
when required  
by local  
authority.

Local  
authorities  
may provide  
lamp posts  
and lamps.  
Service pipes  
to be fully  
charged with  
gas.

Limit of charge  
for gas and  
meters.

Difference to  
be settled by  
arbitration.

Incoming  
tenant not to  
pay arrears of  
outgoing  
tenant, unless  
by express  
agreement.

or which shall entitle the gas company, except for breach of any of the provisions of this Act, to discontinue any supply of gas (i) by less than one month's notice in writing to the consumer, unless the rate due for gas shall be in arrear, in which case three days' notice in writing to the consumer shall be sufficient.

22. The gas company shall well and effectually light all public lamps in all streets which they are required by the local authority to light, and shall, according to the terms of their contract, supply to the local authority so much gas as they require for their public lamps; Provided that the gas company shall not be compelled to light any street with lamps at a greater distance from each other than seventy-five yards.

23. The local authority may provide and keep in repair their own public lamp posts and lamps, and apparatus connected therewith, and, in case of their electing to burn by meter, light and extinguish the lamps, and defray the expenses thereof.

24. Every gas company shall, unless prevented by necessary repairs or unavoidable accident, at all times keep all their branch or service pipes fully charged with gas, and the stopcocks so turned as not to prevent the branch or service pipes from being at all times filled with gas.

25—34. [*Repealed by the City of London Gas Act, 1868, sec. 3, as to the City; and by the South Metropolitan Gaslight and Coke Co.'s Act, 1869, sec. 4; the Commercial Gas Act, 1875, sec. 3; and the Gaslight and Coke Co.'s Act, 1876, sec. 8, so far as relates to those three companies.*]

35. No gas company shall demand or take for any gas or five-light meter supplied by them any sum of money exceeding the rate or meter rent by this Act authorised.

36. [*Rep. 55 & 56 Vict. c. 19. Statute Law Revision.*]

37. [*Repealed by the City of London Gas Act, 1868, sec. 3, as to the City; and by the South Metropolitan Gaslight and Coke Co.'s Act, 1869, sec. 4; the Commercial Gas Act, 1875, sec. 3; and the Gaslight and Coke Co.'s Act, 1876, sec. 8, as to those companies.*]

38. If any difference arise between the local authority and the gas company with respect to any alteration in the test, or to the rate to be charged for gas supplied or for lighting any public lamp, the difference shall be referred to and be determined by arbitration in the manner prescribed by the "Companies Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration (k).

39. In case any consumer leave the premises where gas was supplied to him without paying to the gas company the rate or meter rent due from him, the gas company shall not require from the next tenant of the premises payment of the arrears so left unpaid unless the incoming tenant agreed with the defaulting consumer to pay the arrears; but the gas company shall, notwithstanding any such arrears, in the absence of collusion between the outgoing and incoming tenant, supply gas to the incoming tenant, as required by this Act, on being required by him so to do (l).

(i) *Discontinuation of supply.*—If a gas company to which the Gasworks Clauses Act, 1871, *ante*, applies, improperly cut off the supply of gas they are liable to penalties under sec. 36 of that Act. *Commercial Gas Co. v. Scott, ante*, p. 911.

(k) *Arbitration.*—The South Metropolitan Gaslight and Coke Co.'s Act, 1869, sec. 69, enacts that for the purposes of that Act the present section is to be read as if the Lands Clauses Consolid. Act, 1845 (i.e., sec. 25, *et seq.*), were therein mentioned instead of the Companies Clauses Consolid. Act, 1845.

The whole section is repealed by the Commercial Gas Act, 1875, sec. 3, and the Gaslight and Coke Co.'s Act, 1876, sec. 8, as to those two companies. As to arbitration with the former company, see the Commercial Gas Act, 1875, sec. 69, *post*, and with the latter company, see the Gasworks Clauses Act, 1871, sec. 27, *ante*.

(l) *Payment of arrears.*—The Gaslight and Coke Co.'s Act, 1872 (35 Vict. ch. xxiii.), sec. 18, is identical in terms with the above section, with the addition of the words "or unless the incoming tenant shall continue the trade or business of the outgoing tenant, and shall have paid to the owner, lessee, or mortgagee in possession, or to the outgoing tenant of such premises, a consideration for so doing." B. became tenant of a public-house by assignment of the lease and purchase of the goodwill and business from the outgoing tenant. *Held*, that there was no personal liability on B. to pay the



**40—41.** [*Repealed by the City of London Gas Act, 1868, sec. 3, as to the City; and by the South Metropolitan Gaslight and Coke Co.'s Act, 1869, sec. 4; the Commercial Gas Act, 1875, sec. 3; and the Gaslight and Coke Co.'s Act, 1876, sec. 8, so far as relates to those companies.*] 23 & 24 Vict. c. 125.

**42 (m).** Every gas company shall within one year after the passing of this Act cause a map to be made of the district within which their mains or district mains then lie, on a scale not less than six inches to a mile, and shall cause to be marked thereon the line of all their then existing mains and district mains, and shall once in every year correct such map and make such additions thereto as will show the line of all their then mains and district mains as aforesaid. Gas companies to cause maps of their districts to be made.

**43 (m).** Every map, or a copy thereof, so made by or for each company, with the date expressed thereon of the last time when it was so corrected, shall be deposited, certified by their secretary or clerk by writing under his hand to be a true copy thereof, with the respective clerks of the peace for the counties in which such mains lie, and who are hereby required to receive and keep in safe custody the same; and such maps so deposited shall at all reasonable times be open to the inspection of all local authorities and consumers, and their respective agents, and they respectively may take copies of or extracts from the same; and every gas company wilfully failing to comply with any of the requirements of this Act with respect to maps, and every person having charge of such maps who shall refuse to allow any person to inspect and take copies of or extracts from such maps, shall for every such offence forfeit a sum not exceeding ten pounds. As to deposit and inspection of the maps.

**44 (m).** Every clerk of the peace with whom any map shall be deposited under the provisions of this Act may charge and take the sum of one shilling for every inspection of such map, and the further sum of two shillings and sixpence for every extract from or copy taken of such map. Charge for inspection of map.

**45.** If and whenever it appears to the *Secretary of State* (n) that any of the provisions of this Act have been violated or not complied with on the part of any gas company, or that the gas company are acting in a manner unauthorised by law, and if it appear to him that it would be for the public advantage that the gas company should be restrained from so acting, or compelled to do any act for remedying the wrongful act done by them, the *Secretary of State* (n) may certify the same in writing to Her Majesty's Attorney-General, and thereupon he, if he be so advised, shall proceed by information, bill, or action, or other such proceeding at law or in equity, as the case requires, to restrain the wrongful acting or to compel the doing of the acts for remedying the wrongful acts; Provided always, that the Secretary of State shall not give the certificate at a period exceeding one year after the committing of the offence specified in the certificate. Board of Trade may direct proceedings by the Attorney-General against gas companies.

**46.** Every penalty imposed by this Act, the recovery and application of which is not otherwise specially provided for by this Act, shall be recovered on summary conviction before a magistrate, and be enforced, accounted for, and paid to the receiver of the metropolitan police district, and shall be apportioned in the same manner as penalties or fines, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are by the Metropolitan Police Courts Act, 1839 (o), directed to be recovered, enforced, accounted for, paid, and applied; and every order or conviction of any magistrate in respect of any such penalty shall be subject to the like appeal, and upon the same terms, as is by that Act provided in respect of any order or conviction of any magistrate; and every magistrate by whom any order of Recovery and application of penalties.

2 & 3 Vict. c. 71.

arrears of gas rent due from the outgoing tenant. *Gaslight and Coke Co. v. Mead*, 41 L. J. M. C. 71; 40 J. P. 662. *Quere* whether the company might not have cut off the gas. *Ib.* Receivers and managers on behalf of debenture holders, though continuing the business of the company, are not incoming tenants who have paid to the "outgoing tenant a consideration for so doing," and are not, therefore, liable for arrears of gas rent left unpaid by the company. *Paterson v. Gaslight and Coke Co.* (1896), 2 Ch. 476; 65 L. J. Ch. 709. See also *Mason, Ex parte, In re Smith*, ante, p. 905.

(m) Sections 42 to 44 are repealed by the Commercial Gas Act, 1875, sec. 3, and the Gaslight and Coke Co.'s Act, 1876, sec. 8, as to those companies.

(n) *Secretary of State*.—Now the Board of Trade. See note to sec. 6, ante.

(o) *Metropolitan Police Courts Act, 1839*.—See note to sec. 26 of the Sale of Food and Drugs Act, 1875, ante, tit. "Food and Drugs."

23 & 24 Vict.  
c. 125.

conviction is made under this Act shall have the same power of binding over the witnesses examined, and the witnesses shall be entitled to the same allowance of expenses as they would be entitled to in case the order, conviction, and appeal were made under that Act.

Jurisdiction  
of magistrates  
for purposes  
of Act.

47. Every magistrate shall, for the purposes of this Act, have full jurisdiction and full powers and authorities over the parties respectively, and with respect to making orders on the parties respectively, and otherwise, and as to costs, and may issue every such summons, warrant, and other process, and may take such other proceedings as he thinks requisite; and the service of any summons, notice, order, or other process in the matter on such person, or in such manner as a magistrate directs, shall be good service thereof; and every magistrate may proceed singly in the execution of this Act in such manner as he thinks proper.

For the  
protection  
of water  
companies.

48. Nothing in this Act contained shall extend or be construed to extend to authorise or empower any gas company to interfere with or abridge any of the rights or privileges of any company established for the supply of water to the inhabitants of any parish or place within the Metropolis; and every gas company shall be answerable for any damage, spoil, injury, or mischief which shall be done to any of the pipes, works, or property of any such water company, or which shall or may be sustained by such water company by reason or in consequence of any act, matter, or thing to be done or executed by such gas company, or any of their servants, agents, or workmen.

For laying  
pipes to  
convey gas.

49. Whenever any gas company, or their servants, agents, or workmen, shall dig or sink any trench for laying any new mains or pipes, other than service pipes, for the conveyance of gas or other apparatus near to which any pipe belonging to any water company for conveying water, or any branch or service pipe for the supply of water to any dwelling-house or buildings, shall be laid, such gas company, their servants, agents, or workmen, shall give four hours' previous notice thereof in writing to the manager or chief clerk, or secretary or engineer, of such water company, such notice to be delivered at the principal office of the company between the hours of ten in the morning and four in the afternoon, and shall, under the inspection of the manager or chief clerk, secretary or engineer for the time being of such water company, protect and secure every such water pipe from any injury, and shall also repair any damage that shall be done to such pipe, and in default of repairing such damage the gas company shall for each such default forfeit and pay to the secretary for the time being of such water company, for the use of the said water company, any sum not exceeding five pounds, and also the costs and expenses which shall have been incurred by the said water company in protecting and securing any such water pipe, or in repairing or making good any injury that may have been done thereto by the means aforesaid, such costs and expenses to be ascertained by any justice, and to be recovered in the same manner as any expenses or penalty under this Act may be recovered (*p*).

Mode of  
laying pipes.

50. All pipes hereafter to be laid by any gas company for the conveyance of gas shall be laid at the greatest practicable distance from the nearest part of any pipe then laid down by or by order of any water company for the conveyance of water, and wherever the width of the carriageway or footpath will allow thereof shall be laid at the distance of four feet at least from the nearest part of any such water pipe, unless in cases where it shall be unavoidably necessary to lay the gas pipe across or nearer to any water pipe, in which case the said gas pipe shall, wherever practicable, be laid over and above the said water pipe, at the greatest practicable distance therefrom, and shall form therewith a right angle, or as near thereto as the situation will admit; and in every such case the said gas pipe so crossing the said water pipe shall be at least nine feet in length, so that no joint of any gas pipe shall be nearer to any water pipe than four feet at the least, where the width of the road, street, square, market place, lane, alley, passage, court, or other place will admit; and every such gas pipe so crossing the water pipe shall for the whole length thereof be sufficiently bedded in with good sound clay or other fit materials of a proper consistence, and well worked and rammed into the trench all round the said gas pipe, and in laying

(*p*) **Laying pipes.**—For further provisions regulating the laying of gas mains and pipes, see the Gasworks Clauses Act, 1847, secs. 6—12, and notes thereto, *ante*.

down any such gas pipe the gas company shall use such joints as are for the time being of the most improved description for preventing the leakage of gas, and shall in no case join two or more gas pipes together previous to their being laid in the trench, but shall lay each pipe as near as may be in its place in the trench, and shall in such trench properly form the jointing with the other pipes to be added thereto with proper and sufficient materials, and shall also, wherever practicable, lay and well and sufficiently bed each joint of the main gas pipes and also the joints or screws of the branch or service gas pipes connecting with the main gas pipes, and also the joints of the service or branch pipes for conveying the gas from the main gas pipes to the houses and other buildings, and all other joints, inlets, apertures, or openings which are or shall or may be made in any of the main gas pipes belonging to the gas company, in such manner and of such material as shall, as far as reasonably practicable, prevent leakage (*q*).

51. Whenever the water which shall be supplied by any water company shall be contaminated or affected in any way whatsoever by the gas of any gas company, such gas company shall, within twenty-four hours next after notice thereof in writing, signed by any one of the directors or by the secretary for the time being of such water company, or by any person using the water of such water company, and left at the office of such gas company, cause measures to be taken effectually to prevent such gas from contaminating or affecting the water of such water company; and in case such gas company shall not within forty-eight hours next after any such notice so left as aforesaid use all reasonable means to effectually remove the cause of such complaint, and prevent all such contamination whereof notice shall be given as aforesaid, then and in every such case such gas company shall on each complaint whereof notice shall be given as aforesaid forfeit and pay to the secretary of such water company, for the use of such water company, the sum not exceeding ten pounds for each day during which the water supplied by such water company shall remain contaminated or affected by the gas of such gas company; and every such penalty or forfeiture may be recovered for the use of such water company in the same manner as any other penalty or forfeiture imposed by this Act may be levied and recovered (*r*).

52. And whereas it may become a question upon such complaint as aforesaid whether or not the water supplied by any water company within the Metropolis be contaminated or affected by the gas of the gas company: Be it enacted, that in every such case it shall be lawful for any such water company to dig to and about and to search and examine the mains, pipes, conduits, and apparatus of the gas company adjacent to the pipes of such water company for the purpose of ascertaining whether or not such contamination proceed or be occasioned by the gas of such gas company, giving twenty-four hours' previous notice in writing signed by one of the directors or by the secretary for the time being of such water company, and left at the head office of such gas company, of the intention of such water company so to dig, search, and examine as aforesaid, and of the time and place or places when and where such digging, search, and examination is intended to be made; and if it shall appear that the said water has been contaminated, and that there has been any escape of gas whereby such contamination has been produced, then and in every such case the costs and expenses of the said digging, search, and examination, and of the repair of the street, road, or place which shall be taken up or disturbed, shall be borne and paid by such gas company, which costs and expenses shall be ascertained and determined, if necessary, by any justice, and may be levied and recovered in the same manner as any penalty or forfeiture imposed by this Act may be levied and recovered: Provided always, that if upon such examination it shall appear that such contamination has not arisen from any escape of gas from any of the mains, pipes, or conduits of the gas company to which such notice shall have been given, then and in every such case the water company by whom or on whose behalf such examination and search shall have been made shall bear and pay all the costs, charges, and expenses of and incident to such examination

23 & 24 Vict.  
c. 125.

To prevent  
further con-  
tamination of  
water by gas.

For ascer-  
taining if the  
water is con-  
taminated.

(*q*) **Laying pipes.**—See note (*p*) on page 920.

(*r*) **Contamination of water by gas.**—See also the Gasworks Clauses Act, 1847, secs. 21—23, and note thereto, *ante*; the Waterworks Clauses Act, 1847, secs. 626—7, *post*, tit. "Water;" and the Pub. Hlth. (London) Act, 1891, sec. 52, *ante*, vol. i.



23 & 24 Vict.  
c. 125.

Appropriation  
of penalties in  
the City of  
London.

Saving rights  
of *Metropo-  
litan Board  
of Works* (t),  
vestries, and  
others.

Saving general  
jurisdiction of  
courts of law  
and equity.

Expenditure  
of local  
authorities  
under this Act.  
18 & 19 Vict.  
c. 120.

and search, and shall also make good to such gas company any damage which may be occasioned to their mains, pipes, conduits, or apparatus by such search, and also any injury or damage which may be done in or about any of the streets, roads, or places which shall be broken up or disturbed in such search, the amount of such damage to be ascertained and determined, if necessary, by any justice, and to be levied and recovered in the same manner as any penalty or forfeiture under this Act may be levied and recovered (s).

53. All penalties or sums of money ordered and adjudged within the City of London and the liberties thereof to be paid under this Act, and not otherwise appropriated, shall be payable to the Chamberlain of the City of London, in aid of the expenses of the police of the said City.

54. Nothing in this Act contained shall avoid, prejudice, or impair any of the powers now exercised by or vested in the *Metropolitan Board of Works* (t), or in the commissioners of sewers of the City of London and the liberties thereof, or any powers now vested in any local authority within the Metropolis, or any powers now exercised or possessed in respect of the manufacture or supply of gas within the Metropolis by any railway company, or by any other person or persons making or supplying gas for his or their own use, and not making or supplying gas to the public as a trade or business (u): Provided that if the said local authority shall refuse or delay their consent to any company to lay down mains or pipes in accordance with the provisions of this Act, it shall be lawful for the said *Secretary of State* (x) under his hand to authorise the same to be laid down without such consent; and after the date of the application by such company to the said *Secretary of State* (x) for such consent no penalty shall be incurred by any default of such company, so far as it is occasioned by such refusal only.

55. Provided that no special remedy or provision for giving relief to any person given by this Act shall prejudice or diminish the general jurisdiction of any of Her Majesty's superior courts of law or equity over or with respect to the acts or defaults in respect of which the special remedies or provisions are so given.

56. [*Rep.* 38 & 39 Vict. c. 66. *Statute Law Revision.*]

57. All the expenditure from time to time made or incurred by any local authority under the authority of this Act may and shall be defrayed by the local authority out of any rate raised under the provisions of the *Metropolis Management Act, 1855* (y).

(s) **Contamination of water by gas.**—See note (r) on page 921.

(t) **Met. Bd. Wks.**—Now the London County Council. *Loc. Govt. Act, 1888*, sec. 40 (8), *ante*, vol. i.

(u) **Saving rights.**—The effect of this Act is not to prevent the companies who were not enumerated in it, and who were supplying gas to others than the public at the time of the passing of the Act, from continuing to do so. *Imperial Gaslight and Coke Co. v. West London Junction Gas Co.*, 15 L. T. (N. S.) 66; 14 W. R. 1019. See also *Gaslight and Coke Co. v. South Metropolitan Gas Co.*, *ante*, p. 915.

(x) **Secretary of State.**—Now the Board of Trade. See note to sec. 6, *ante*.

(y) **Met. Man. Act, 1855.**—*Ante*, vol. i. The expenses of the London County Council are defrayed out of the special county rate. *Loc. Govt. Act, 1888*, secs. 40 (8), 41 (3), and 68 (3), *ante*, vol. i.

SCHEDULE to which fifth section of the foregoing Act refers (z).

23 & 24 Vict.  
c. 125.

| Name of Gas Company.                                              | Special Act or Instrument of Incorporation.                        | District.                                                                  |
|-------------------------------------------------------------------|--------------------------------------------------------------------|----------------------------------------------------------------------------|
| The Crystal Palace District Gas Company (z).                      | The Crystal Palace District Gas Company's Act, 1858.               | The district defined by their said special Act.                            |
| The Woolwich, Plumstead, and Charlton Consumers' Gas Company (z). | The Woolwich, Plumstead, and Charlton Consumers' Gas Act, 1855.    | The district defined by their said special Act.                            |
| The Woolwich Equitable Gaslight and Coke Company (z).             | The Woolwich Equitable Gas Company's Act, 1855.                    | The district defined by their said special Act.                            |
| The Wandsworth and Putney Gaslight and Coke Company.              | The Wandsworth and Putney Gas Act, 1856.                           | The district defined by their said special Act.                            |
| The Brentford Gas Company.                                        | The Brentford Gas Act, 1858.                                       | The district now actually supplied by the company.                         |
| The Victoria Docks Gas Company (z).                               | The Victoria Docks Gas Act, 1857.                                  | The district defined by their said special Act.                            |
| The Eltham Gaslight and Coke Company, Limited.                    | Articles of Association under the Joint Stock Company's Act, 1856. | The parish of Eltham.                                                      |
| The West Ham Gas Company.                                         | The West Ham Gas Company's Act, 1856.                              | The district defined by their said special Act.                            |
| Mitcham, Merton, and Tooting Gas Company.                         | Articles of Association under 7 & 8 Victoria, cap. 110.            | The parishes and villages of and adjacent to Mitcham, Merton, and Tooting. |

## THE COMMERCIAL GAS ACT, 1875 (a).

**38 & 39 Vict. ch. cc.** An Act for conferring further powers on the Commercial Gas Company, and for the amalgamation with that Company of the Ratcliff Gaslight and Coke Company; and for other purposes.  
[11th August, 1875]

[Preamble.]

1. This Act may be cited as the Commercial Gas Act, 1875.

Short title.

\* \* \* \* \*

(z) **Companies in schedule.**—The Act does not extend to the companies referred to in the schedule, sec. 5, *ante*. By their Act of 1893 (56 & 57 Vict. ch. clxviii.), sec. 30, the Crystal Palace District Gas Co. is authorised to amalgamate with the South Metropolitan Gas, &c., Co. The Woolwich, Plumstead, &c., Co., and the Woolwich Equitable, &c., Co., are now amalgamated with the South Metropolitan Gas, &c., Co.; and the Victoria Docks Gas Co. is amalgamated with the Gaslight and Coke Co.

(a) **Application of Act.**—This Act applies only to the Commercial Gas Co., but, with some exceptions which are noted under the respective sections, provisions identical in terms with the sections set out are applied to the Gaslight and Coke Co. by the City of London Gas Act, 1868 (31 & 32 Vict. ch. cxxv.), and the Gaslight and Coke Company's Acts, 1868 (31 & 32 Vict. ch. cvi.), and 1876 (39 & 40 Vict. ch. cccxv.), and to the South

38 & 39 Vict.  
ch. cc.

3. [*Modification of Metropolis Gas Act, 1860 (b).*]

4. [*Repeal of secs. 62 and 67 of Commercial Gas Act, 1852.*]

5. [*Incorporation of parts of Lands Clauses Acts and Companies Clauses Act, 1845.*]

Interpretation  
of terms.

6. In this Act—

“Metropolitan Board” means the *Metropolitan Board of Works* (c):

“Local authority” means a vestry or district board acting under “The Metropolis Management Act, 1855” (d):

“Share” and “shareholder” include stock and stockholder:

“Half year” means a half year reckoned from the first day of January and the first day of July (each inclusive) in each year:

“Quarter” means a quarter of a year reckoned from the first day of January, first day of April, first day of July, and first day of October (each inclusive) in each year:

“Day” means (except in this section) twenty-four hours, reckoned from nine o'clock in the forenoon of one day to nine o'clock in the forenoon of the next following day, so much of each day as is before nine o'clock in the forenoon being reckoned as part of the immediately preceding day of the month or week:

“Candles” mean sperma candles of six to the pound, burning one hundred and twenty grains an hour each.

7—21. [*General provisions as to taking lands, raising capital, &c.*]

Appointment  
of gas referees.

22. The Board of Trade shall, as soon as may be after the passing of this Act, appoint, in relation to the Commercial Company, three competent and impartial persons, one at least of them having practical knowledge and experience in the manufacture and supply of gas, who shall be called the gas referees (and who are in this Act referred to as the gas referees), and in case of a vacancy happening among them by death, resignation, or otherwise, shall appoint a competent and impartial person to fill the vacancy, one at least of the three being always qualified as aforesaid.

Continuance of  
referees.

23. Every person appointed to be one of the gas referees shall continue in office for one year only from the date of his appointment, but shall be capable of re-appointment.

Quorum, &c  
of referees.

24. Two of the gas referees shall be a quorum, and at least two of the gas referees shall concur in every act or determination of the gas referees.

Certificates of  
referees.

25. A copy of each certificate of the gas referees required by this Act shall be sent by them to the *Metropolitan Board* (e) and to the Commercial Company.

Mode and times  
of testing illu-  
minating  
power.

26. The gas referees shall, subject to the provisions of this Act, from time to time prescribe and certify the mode to be adopted for testing and recording the illuminating power and pressure (f) of gas supplied by the Commercial Company, and the number of the times of testing.

Examination of  
gasworks by  
referee.

27. The gas referees shall, with all practicable speed after their appointment, and the gas referees for the time being may from time to time thereafter inspect the works of the Commercial Company, and investigate the processes of manufacture carried on therein, with the view of ascertaining the means adopted therein for purifying gas and for preventing nuisance, and may from time to time apply all such tests as they think expedient, at the works of the Commercial

Metropolitan Gas Co. by the South Metropolitan Gas Acts, 1869 (32 & 33 Vict. ch. cxxx.), and 1876 (39 & 40 Vict. ch. cxxix.).

(b) *Metropolis Gas Act, 1860.*—The repeals and modifications are noted under the respective sections of this Act, *ante*.

(c) *Met. Bd. Wks.*—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i,

(d) *Metrop. Man. Act, 1855.*—*Ante*, vol. i.

(e) *Met. Bd. Wks.*—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*. When the testing takes place within the City the copy of the certificate is sent to the City Corporation instead of to the County Council. City of London Gas Act, 1868, sec. 32.

(f) *Pressure.*—So much of this section as relates to the pressure of gas is repealed by the Gaslight and Coke, &c., Amend. Act, 1880, sec. 21, *post*.



Company or elsewhere, for ascertaining the amount of sulphur and ammonia, and of compounds thereof, or other impurity with which gas supplied by them is charged. 38 & 39 Vict. ch. cc.

28. The Commercial Company shall give to the gas referees and each of them, and to each of their clerks, servants, and workmen, access to the works of the company, and shall when required afford to them and each of them all facilities for the proper execution of their and his duty. Access to works.

29. The gas referees shall from time to time ascertain with what degree of purity the Commercial Company can reasonably be required to make and supply gas continuously without occasioning a nuisance to the neighbourhood in which the works are situate, and shall thereupon prescribe and certify the maximum amount of impurity in each form with which gas supplied by the company should be allowed to be charged, and the time from which the allowance thereof should be enforced as against the company, regard being had to the necessity for any alteration of works by the company consequent on any such certificate. Purity of gas to be prescribed.

30. The gas referees shall from time to time prescribe and certify the mode to be adopted for testing and recording the purity of gas supplied by the Commercial Company, and the number of the times of testing such purity. Mode and times of testing purity.

31. Gas supplied by the Commercial Company shall be wholly free from sulphuretted hydrogen, and nothing in this Act shall authorise the gas referees to allow of gas being charged with any amount of impurity in that form. Freedom from sulphuretted hydrogen.

32. The gas referees shall from time to time prescribe and certify the situation and number of the testing places, and the apparatus and materials to be used therein for testing the illuminating power, purity (g) . . . of the gas to be provided by the Commercial Company (g) . . . and the company shall provide and maintain such testing places and apparatus and materials accordingly (h). Provision of testing places and apparatus.

33. The prescribed testing places, materials, and apparatus provided by the Commercial Company shall be under the control and management of the *Metropolitan Board* (i), but the company may also have a separate testing place in the same building under their own control and management (h). Control, &c., of testing place.

34. The burner for testing the gas supplied by the Commercial Company shall be a Sugg's London argand, such as immediately before the passing of this Act was the burner prescribed and used by the gas referees under the City of London Gas Act, 1868, for testing gas, three or more models of which burner shall be certified as such by the President of the Board of Trade, whereof one shall be deposited with the Warden of the Standards, and one with the *Metropolitan Board* (i), and one shall be delivered to the Commercial Company (k). Description of burner for testing illuminating power.

35. The *Metropolitan Board* (i) shall . . . always keep appointed a competent and impartial person or persons to be a gas examiner or gas examiners for the several testing places. Appointment of gas examiner.

36. There shall be a chief gas examiner, being a competent and impartial person, from time to time appointed by and removable by the Board of Trade. Appointment of chief gas examiner.

37—51. [*Repealed by Gaslight and Coke and Other Companies Amend. Act, 1880 (43 & 44 Vict. ch. cxxxix.), post.*]

52. The gas supplied by the Commercial Company shall, with respect to its illuminating power, be such as to produce, when consumed, at the rate of five power.

(g) **Section 32.**—The words omitted are repealed by the Gaslight and Coke, &c., Amend. Act, 1880, sec. 21, *post*.

(h) **Testing places.**—The Gaslight and Coke Co.'s Act, 1876, secs. 35—37, requires, with respect to that company, that one at least of the testing places shall be prescribed within the City, and one or more outside the limits of the City; and that the testing places in the City shall be under the control of the City Corporation.

(i) **Metropolitan Board.**—Now the London County Council.

(k) **Description of burner. Deposit of Models.**—The Gaslight and Coke Co.'s Act, 1876, sec. 37, provides, with respect to that company, that the burner for testing cannel gas shall be the burner known as "Sugg's Steatite batswing, No. 7," and that one of the models of each description of burner shall be deposited with the commissioners of sewers of the City.

38 & 39 Vict. ch. cc. cubic feet per hour in the burner by this Act prescribed a light equal in intensity to the light produced by sixteen candles (*l*).

Fixing maximum price of gas, with sliding scale as to dividend. 53. The standard price to be charged by the Commercial Company for gas supplied by them shall be three shillings and ninepence per one thousand cubic feet, provided that the company may increase or diminish such standard price, subject to a decrease or increase in the standard rates of dividend as defined by this Act, to be calculated as follows:

For every penny or part of a penny charged in excess or in diminution of such standard price in any year, the standard rates of dividend shall for such year be reduced or increased by five shillings in the hundred pounds per annum (*m*).

54. [*Auditor of accounts.*]

55. [*Ascertainment of capital of company.*]

56. [*Form of accounts.*]

57. [*Periodical audit.*]

58. [*Facilities for auditor.*]

Power for County Council to appear before auditor. 59. A copy of the accounts before the auditor shall certify the same shall be forwarded to the *Metropolitan Board (n)*, and the *Metropolitan Board (n)* may, in case they shall so desire, appear before the auditor (*o*), and before certifying the accounts the auditor shall, if required, hear the *Metropolitan Board (n)* and the company with respect to any matter relating to such audit or accounts.

Arbitration between auditor and company. 60. If the *Metropolitan Board (n)* or the Commercial Company think themselves aggrieved by any act, determination, or omission of the auditor, the matter in difference shall be referred to the determination of an arbitrator to be agreed on between them and the auditor, or in default of agreement, to be appointed on the application of either party by the Lord Chief Justice of the Court of Common Pleas, and the reference shall be subject and according to the provisions of the *Common Law Procedure Act, 1854 (p)* and the costs of the arbitration shall be in the discretion of the arbitrator, whose decision shall, with respect to all such matters, be final and conclusive, and subject to this provision the directions and determination of the auditor shall be final and conclusive.

Remuneration and expenses of gas referees, &c. 61. The remuneration of the gas referees, and of the chief gas examiner and of the auditor shall be such as the Board of Trade from time to time direct, and a proportionate part of the same, and of all expenses properly incurred by them in or about the execution of their duties, to be fixed from time to time by the Board of Trade, having regard to the paid-up capital of the Commercial Company, shall be paid by them on demand to such fund or account, and in such manner as the Board of Trade from time to time direct, and shall be a debt due from the Commercial Company to the Crown, and shall be recoverable accordingly with costs (*q*).

(*l*) **Illuminating power.**—Identical provisions are contained in the Gaslight and Coke Co.'s Act, 1876, sec. 25, and the South Metropolitan Gas Act, 1876, sec. 26, substituting in the former Act twenty candles for sixteen candles in the case of cannel gas; and with the addition, in both Acts, of the words: "such candles being sperm candles of six to the pound, each burning 120 grains an hour."

(*m*) **Standard price.**—In the case of the Gaslight and Coke Co., the standard price is fixed by their special Act of 1876, secs. 19 and 20, at 3s. 9d. for common gas, and 4s. 9d. for cannel gas. The South Metropolitan Gas Acts, 1876, sec. 21, and 1896, sec. 16, fix the standard price for that company at 3s. 6d. The Wandsworth and Putney Gas Act, 1880, sec. 15, fixes the standard price for that company at 4s. The Crystal Palace District Gas Act, 1893, sec. 17, fixes the standard price for that company at 3s. 2d. In each case the standard price is subject to increase or decrease on a sliding scale, according as the standard rate of dividend falls or rises, but the prescribed sliding scales are not alike.

(*n*) **Metropolitan Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (*8*), *ante*, vol. i.

(*o*) **Appear before auditor.**—No provision apparently is made in the special Acts of the Gaslight and Coke Co. and the South Metropolitan Gas Co., for the appearance of the County Council before the auditor with respect to the accounts of those companies.

(*p*) **Common Law Procedure Act, 1854.**—Secs. 3—17 of this Act, which contained provisions as to arbitration, are repealed and replaced by the Arbitration Act, 1889, and the above section must be construed as referring to the latter Act. *lb*. sec. 26 (*2*).

(*q*) **Remuneration of referees.**—There appears to be no corresponding provision made in the Gaslight and Coke Co.'s Acts.

62. The profits of the Commercial Company to be divided among the shareholders in any year shall not, except as in this Act is otherwise provided, exceed the rate of ten pounds per centum per annum upon the capital paid up on the passing of this Act, and the rate of seven pounds per centum per annum on shares or stock of the additional capital by this Act authorised to be raised (which rates are respectively in this Act referred to as the standard rates of dividend) (r). 38 & 39 Vict. ch. cc. — Profits of company limited.

63. [*If profits exceed the amount limited excess to be invested and form an insurance fund.*]

64. [*Application of excess of profits over prescribed rate of dividend.*]

65. [*Power to create a reserve fund out of dividends in excess of the prescribed rate of dividend.*]

66. [*Application of reserve fund.*]

67. [*As to conversion of borrowed money into capital.*]

68. The Commercial Company supplying gas to public lamps, or the local authority, may at their own expense cause to be affixed to each lamp the instrument known as a street lamp governor, and the Commercial Company or the local authority, as the case requires, shall be entitled to have access thereto for the purpose of examining the same; and in case any dispute arises between the company and the local authority with reference to the affixing, operation, or inspection of governors, the same shall be referred to the determination of the chief gas examiner, whose decision shall be final and conclusive. Governors for street lamps.

69. The Commercial Company shall not charge a higher price per one thousand cubic feet for gas supplied to a local authority than the lowest price per one thousand cubic feet charged by them at the same time to any private customer, but if the Commercial Company contend as against the local authority that there are special circumstances justifying them in charging a lower price to any other customer, the question whether or not such lower price shall be taken as the standard for the price to be charged to the local authority shall be determined by arbitration, and the price fixed by such arbitration shall continue for two years at least. Limit of charge for gas supplied to public lamps.

Arbitration under this section shall be conducted in the manner prescribed by the Lands Clauses Consolidation Act, 1845, with respect to the settlement of disputes by arbitration (s).

70. The Commercial Company shall, within six months after the commencement of this Act, provide a map of the district within which their mains or pipes may be laid to a scale of not less than five feet to a mile, and shall show thereupon the lines and sizes and depth beneath the surface of all their existing mains or pipes, except service pipes to separate houses, and the positions of all valves, syphons, and other appliances, and shall once in every year on or before the thirty-first day of December correct such map and make such alterations in or additions thereto as may be necessary to show correctly as near as may be the lines, position, sizes, and depths of the various pipes, and also their appliances, and shall keep such map in the principal office of the company, and the same Company to make a map.

(r) **Standard profit.**—The standard profit of the Gaslight and Coke Co. is fixed at 10 per cent. by their special Act of 1876 (39 & 40 Vict. ch. ccxxv.), sec. 10. By the South Metropolitan Gas Act, 1896 (59 & 60 Vict. ch. ccxxvi.), secs. 3 and 4, the whole of the then existing stocks of the company, amounting to 2,190,000*l.*, were converted into 5,475,000*l.* ordinary stock, and the unissued stock was also converted into ordinary stock, the whole of the stock, issued and unissued, to bear a uniform standard dividend of 4 per cent., subject to increase or decrease under a sliding scale prescribed by sec. 16, according as the price of gas is below or above the standard price.

As to the Crystal Palace District Gas Co., and the Wandsworth and Putney Gaslight and Coke Co., see note to sec. 30 of the Gasworks Clauses Act, 1847, *ante*.

(s) **Arbitration.**—With respect to the South Metropolitan Gas Co., any arbitration will be under sec. 38 of the Metropolis Gas Act, 1860, *ante*, as amended by sec. 69 of the South Metropolitan Gas Act, 1869. Sec. 38 of the former Act is repealed by the Gaslight and Coke Co.'s Act, 1876, sec. 8, as to that company; and as no provision for arbitration is substituted, any difference with that company must be settled by arbitration in the manner provided by the Gasworks Clauses Act, 1871, sec. 27, *ante*.



- 38 & 39 Vict.  
ch. cc. — shall be open to the inspection of the local authorities and their officers and to the public generally during usual office hours, who may inspect or take copies of or extracts from the same, and the company may charge and take the sum of one shilling for each inspection of such map, and the further sum of two shillings and sixpence for each extract, tracing, or copy taken of such map; and if the company wilfully fail to comply with any of the requirements of this Act in respect of such map, they shall for every such offence forfeit and pay any sum which two justices of the peace may adjudge not exceeding the sum of fifty pounds.
- Pressure of gas. **71.** All gas supplied by the Commercial Company to a private consumer shall (except in case of accident or repairs) be supplied at such pressure as to balance from midnight to sunset a column of water not less than six-tenths of an inch in height, and to balance from sunset to midnight a column of water not less than one inch in height at the main, as near as may be to the junction therewith of the service pipe supplying the customer's house, building, or lands.
- Power to refuse supply to person in debt for other property.  
Deposit in case of dispute **72.** If a person requiring a supply of gas from the Commercial Company has previously quitted premises at which gas was supplied to him by them, without paying to them all gas and meter rent due from him in respect thereof, they may refuse to furnish to him a supply of gas until he pays the same (*t*).
- 73.** Where a dispute arises between the Commercial Company and one of their customers respecting any payment to be made to them, if the customer deposits with them by way of security the amount claimed by them, it shall not be lawful for them to discontinue a supply of gas to the customer by reason of the dispute; but nothing herein shall authorise them, where such deposit is not made, to discontinue a supply of gas to him in any case in which they would not have been authorised to do so if this Act had not been passed.
- Contract to be signed before gas consumed. **74.** Every person being or desiring to become a customer of the Commercial Company shall, if required by them, sign a contract with them in the form given in the schedule to this Act, or to the like effect, with such variations and additions as circumstances require, and if any person refuses to do so, the company may refuse to give or may discontinue the supply of gas to him, and may remove any meter belonging to them in his possession (*u*).
- Fixing minimum rent for gas. **75.** Notwithstanding anything contained in the Metropolis Gas Act, 1860, the Commercial Company shall not be compelled to lay on gas for any stable or other outbuilding where the company do not supply gas to the house to which such stable or outbuilding belongs, unless the person requiring such gas shall agree that the consumption of gas in such stable or outbuilding be at the rate of at least ten shillings per annum, or unless such person shall pay the expense of service pipe and meter (*x*).
- Gas rents payable by occupiers who are servants may be recovered from their employers.  
Incoming tenants to give security if required. **76.** Where, in any proceeding for the recovery of any gas rent due to the Commercial Company from the occupier of any premises, it is proved to the satisfaction of the justices or court having cognizance of the case that such occupier occupied the said premises as the agent or servant of some other person, such last-mentioned person shall be liable to pay such gas rent to the company, in the same manner and to the same extent as such occupier (*y*).
- 77.** Sections fifteen and sixteen of the Metropolis Gas Act, 1860, which require security to be given, shall apply to the supply of gas or of meters to any person who shall succeed a tenant in the occupation of a house or premises where at the time of such person's entering into possession gas was consumed, and who shall desire to continue to use the gas of the Commercial Company, as though the company had not theretofore supplied the said house and premises, and the

(*t*) **Power to refuse supply.**—No corresponding power to refuse to supply persons in debt for other premises, appears to be conferred on the other gas companies.

(*u*) **Contract.**—There is no corresponding provision in the special Acts of the Gaslight and Coke Co. and the South Metropolitan Gas Co. As to contracts with those companies, see the Gasworks Clauses Acts, 1871, sec. 11, *ante*.

(*x*) **Minimum rent.**—See sec. 14 of the Metropolis Gas Act, 1860, *ante*. No such provision is made in any of the Acts of the Gaslight and Coke Co., who, however, are protected under sec. 11 of the Gasworks Clauses Act, 1871, *ante*.

(*y*) **Recovery from employers.**—There is no corresponding provision in the special Acts of either the Gaslight and Coke Co. or the South Metropolitan Gas Co.

company in default of such person's compliance may discontinue the supply of gas to such person and remove the meter (z). 38. & 39 Vict. ch. cc.

78. Before any person connects or disconnects, or allows any other person to connect or disconnect, any meter by which any of the Commercial Company's gas is intended to be or has been registered, he shall give not less than twenty-four hours' notice in writing to the company of his intention so to do, and if any person fail to give such notice he shall for every such offence forfeit not exceeding five pounds. Notice to company of connecting or disconnecting meters.

79. Every consumer of gas of the Commercial Company shall at all times, and at his own expense, keep every meter belonging to him whereby any gas of the company is registered in proper order and proper and sufficient in all respects for correctly registering the gas supplied to him, and in default thereof the company may cease to supply gas through such meter; and the company shall at all reasonable times have access to, and be at liberty to take off, remove, test, inspect, replace, and if necessary repair, any meter belonging to a consumer, and if the meter be found in proper order and proper and sufficient in all respects, the taking off, removing, testing, inspecting, and replacing shall be done at the expense of the company, but otherwise at the expense of the consumer, together with the cost of repair, and if any consumer refuses or prevents the access to and the removal of such meter for the purpose aforesaid, it shall be lawful for the company to cut off the supply of gas without further notice (a). Repair of meters.

80. The Commercial Company, after twenty-four hours' notice in writing under the hand of the secretary or some other officer of the company to the occupier, or if unoccupied, then to the owner or lessee of any land, house, or building in which any pipe, meter, or fitting belonging to the company is laid or fixed, and through or in which the supply of gas is from any cause other than the fault of the company discontinued, may enter the premises within the hours of nine in the morning and four in the afternoon, for the purpose of removing and may remove the pipes, meters, or fittings, repairing all damages caused by the entry or removal, and every such notice shall be served by being delivered to the person for whom it is intended, or left at his usual or last known place of abode, or if the person or his address be not known to the company after due inquiry, then by being affixed on some conspicuous part of the said premises. Power to remove meters and fittings.

81. The company may make meters, and may let for hire any meter for ascertaining the quantity of gas consumed or supplied, and any fittings thereto, for such meter rent in accordance with this Act, and on such terms with respect to the repair of the meter and fitting and for securing the safety and return to the company of the meter, as are agreed upon between the hirer and the company (b), and the meter rent shall be recoverable in the same manner as the gas rents, and the meters and fittings shall not be subject to distress or to the landlord's claim for rent of the premises where the same are used, nor to be taken in execution under any process of a court of law or equity or any proceedings in bankruptcy against any person in whose possession the same are. Power to company to let meters.

82. Every person who wilfully, fraudulently, or by culpable negligence injures or suffers to be injured any meter or fitting of the Commercial Company, or fraudulently alters or suffers to be altered the index to any meter, or prevents any meter from duly registering the quantity of gas supplied (c), shall, without prejudice to any other right or remedy for the protection of the company or the Fraudulently injuring meters.

(z) **Incoming tenant to give security.**—There is no corresponding provision in any of the Gaslight and Coke Co.'s Acts.

(a) **Cut off supply.**—The corresponding provision of the Gaslight and Coke Co.'s Act, 1868, sec. 79, does not empower that company to cut off the supply of gas. They are, however, protected under sec. 17 of the Gasworks Clauses Act, 1871, *ante*.

(b) **Power to let meters.**—No express power to let meters is conferred on the South Metropolitan Gas Co. by their special Acts. But see the Gasworks Clauses Act, 1871, sec. 18, *ante*. As to when the gas companies are bound to supply a meter, if so required, see the Metropolitan Gas Act, 1860, sec. 14, *ante*.

(c) **Fraudulently injuring meters.**—In the corresponding provision contained in sec. 68 of the Gaslight and Coke Co.'s Act, 1868, and sec. 78 of the South Metropolitan Gas Act, 1869, the following words are inserted, "or connects or suffers to be connected with a meter any gas burners of a number or size greater than the number or size proportioned to the size of the meter."

38 & 39 Vict.  
ch. cc.

punishment of the offender, for every such offence forfeit and pay to the company not exceeding five pounds, and the company may in addition thereto recover the amount of any damages by them sustained; and notwithstanding any contract with respect to the supply of gas to the person so offending, the company may also discontinue the supply of gas to the person so offending (d), and the existence of artificial means for the alteration or prevention of the due registration of any meter shall, when the meter is in the custody or control of the consumer, be *prima facie* evidence that the same has been fraudulently, knowingly, and wilfully caused by the consumer using the meter.

For preventing  
frauds and  
waste of gas.

**83.** If any person supplied with gas by the Commercial Company wilfully does or causes or suffers to be done anything in contravention of any of the provisions of this Act or other Acts of the company, or wilfully fails to do anything which under this Act or other Acts of the company ought to be done for the prevention of the waste, misuse, or undue consumption of the company's gas, the company may cut off or stop any pipe by or through which gas is supplied to him, and cease to supply him with gas so long as the cause of damage or injury remains or is not remedied, and also may recover in any court of competent jurisdiction from every person so offending the amount of all loss, damage, or injury which the company sustain by reason of any such thing or failure; and the remedies of the company under this section shall be in addition to their other remedies in that behalf.

Mode of  
measuring gas  
for public  
lamps.

**84.** The gas for public lighting shall if required by either party be supplied by measurement, and the referees shall if required by either party from time to time prescribe and certify the mode of ascertaining the quantity of gas consumed by the public lamps.

Recovery of  
charges for gas.

**85.** In case any person who has been supplied with gas by the Commercial Company, or who is liable under this Act to any payment in respect of a supply of gas, or the use or repair of any meter, fails for fourteen days after demand thereof (e) by the company, their agent or collector, to pay the amount due in respect of the supply or of the meter, any justice, on application by the company, shall issue his summons to the person, requiring him to appear at a time and place named therein, and then and there to show cause why the sum so demanded should not be paid; and if on the appearance of the person, or in default of appearance after proof of the service of the summons, either personally or at his last known place of abode or of business, sufficient cause is not shown to the contrary, the justice shall issue his warrant of distress for the seizure and sale of the goods and chattels of the person for the recovery of the amount proved before the justice to be due from the person, with such costs, to be settled by the justice, and including the costs of cutting off the gas if the same is cut off by the company, as the justice thinks just and reasonable.

Recovery of  
sums due to  
the company.

**86.** Whenever any person fails to pay any gas rent or meter rent or sum due and payable by him to the Commercial Company, the company may recover the same in any court of competent jurisdiction for the recovery of debts of like amount, and the remedies of the company under this section shall be in addition to their other remedies for the recovery of the rent and sum.

Register of  
meter to be  
*prima facie*  
evidence of  
gas consumed.  
Penalties on  
company not  
cumulative.

**87.** The register of the meter shall be *prima facie* evidence of the quantity of gas consumed by any customer of the Commercial Company, and in respect of which any rent is charged and sought to be recovered by the company.

**88.** Penalties imposed on the Commercial Company for one and the same offence by several Acts of Parliament are not cumulative, and for that purpose this Act and the Acts incorporated therewith are several Acts.

**89—123.** [*Amalgamation of Ratcliff Gaslight, &c. Co. with Commercial Gaslight, &c. Co.*]

(d) **Discontinue supply.**—Sec. 68 of the Gaslight and Coke Co.'s Act, 1868, only empowers that company to "discontinue the supply of gas to the person so offending until the damage or injury is remedied and the amount of the damages is paid."

(e) **Fourteen days after demand.**—Sec. 17 of the Gaslight and Coke Co.'s Act, 1872 (35 Vict. ch. xxiii.), gives that company an immediate right to a summons on neglect or refusal to pay the amount due.



The SCHEDULE to the foregoing Act.

38 & 39 Vict.  
ch. cc.

THE COMMERCIAL GAS COMPANY.

I do hereby contract with the Commercial Gas Company for a supply of gas by meter on the following terms and conditions, namely, at per thousand cubic feet, or such other rate as the company are for the time being entitled under Act of Parliament to charge, and per quarter for the use of the company's light meter; and if the meter from any cause ceases or omits to register accurately the quantity of gas used, I hereby agree to pay in respect of the gas consumed a reasonable proportion of the above rate for and during the period of such non-registration. And I agree to pay the rent [quarterly], and hold myself liable for all gas consumed on the above premises, whether by myself or others, until notice in writing be given by me to the company.

I also agree that the meter shall be accessible at all reasonable times to the inspection of the company's inspectors or servants.

(Signed)

Consumer.

(Witness)

Inspector.

# GASLIGHT AND COKE AND OTHER GAS COMPANIES ACTS AMENDMENT ACT, 1880.

**43 & 44 Vict. ch. clxxxi.** An Act to make further provision for regulating the supply of gas by the Gaslight and Coke Company, the Commercial Gas Company, and the South Metropolitan Gas Company, and to amend the Acts relating to the said Companies.

[26th August, 1880

[*Preamble recites the Gaslight and Coke Company Act, 1876, the Commercial Gas Act, 1875, and the South Metropolitan Gaslight and Coke Company's Act, 1876.*]

**1.** [*Short title:—The Gaslight and Coke and other Gas Companies Acts Amendment Act, 1880.*]

**2.** In this Act—

The expression “the City” means the City of London and the liberties thereof:  
The expression “the corporation” means the mayor, aldermen, and commons of the City of London in common council assembled:

Interpretation  
of expressions.

The expression “The Metropolitan Board of Works (*f*):

The expression “the special Act,” in relation to any of the companies to which this Act applies, means and includes any and every Act of Parliament relating exclusively to such company, and so much of any and every other Act of Parliament as affects such company:

The expression “the district,” in relation to any of the companies to which this Act applies, means the area within the limits of this Act in which such company is for the time being authorised to supply gas:

The expression “testing place” shall mean a testing place prescribed and certified by the gas referees:

The expression “the controlling authority,” in relation to any place in the City, means the corporation, and in relation to any other place within the limits of this Act means the Metropolitan Board (*f*).

**3.** This Act shall not be in force in any place beyond the limits of the Metropolis as such limits are defined by the Metropolis Management Act, 1885 (*g*).

Limits of Act  
18 & 19 Vict.  
c. 120.

(*f*) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (*g*), *ante*.

(*g*) **The Metropolis** is defined by sec. 250 of the Met. Man. Act, 1855, *ante*, vol. i.

43 & 44 Vict.  
ch. clxxxi.

Application  
of Act.

Power to gas  
referees to  
visit testing  
places.  
Mode and  
times of  
testing pres-  
sure of gas.

Daily testing  
for illuminat-  
ing power  
and purity.

What shall be  
deemed illumi-  
nating power  
for each day.

Average of  
testings of  
purity.

Company may  
be represented  
at testings.

Daily reports  
and access to  
books.

Appeal to  
chief gas  
examiner.

4. This Act shall extend and apply to the companies following; that is to say—

The Gaslight and Coke Company;  
The Commercial Gas Company; and  
The South Metropolitan Gas Company;

and throughout the districts of the said companies and for the purposes of its application throughout any one of such districts the expression "the company" shall be construed to mean such one of the said companies as is for the time being authorised to supply gas in such district, and the expression "the gas referees," "the chief gas examiner," and "gas examiner" shall respectively have the meanings assigned to the same expressions in the special Act of such company, and the special Act of such company, as amended by this Act, and this Act shall be construed together as one Act.

5. The gas referees shall from time to time, after giving notice to the controlling authority, visit the testing places and examine the apparatus for the purpose of ascertaining that it is kept in good and proper repair and working order.

6. The gas referees shall from time to time prescribe and certify the mode to be adopted for testing and recording the pressure at which gas is supplied by the company, and a gas examiner shall in the mode so prescribed test the pressure at which gas is supplied at such hour and in such street or part of a street as the controlling authority may from time to time by an order in writing appoint, and within three days of the receipt of such order.

7. A gas examiner shall at each testing place make daily such number of tests as the gas referees may prescribe for ascertaining whether during the whole of each day the illuminating power and purity of the gas supplied at such testing place by the company are such as are respectively prescribed under the special Act. Provided that the tests for illuminating power shall be taken at intervals of not less than one hour.

And in the event of the gas being ascertained to be defective in any such particular, such examiner shall forthwith give notice thereof to the company.

8. The average of all the testings at any testing place on each day of the illuminating power of the gas supplied by the company, at such testing place shall be deemed to represent the illuminating power of such gas on that day at such testing place.

9. The average of all the testings at any testing place on any day of the purity of the gas supplied by the company at such testing place shall be deemed to represent the purity of such gas on that day at such testing place.

Provided always, that if on any one day the gas supplied by the company at such testing place is of less purity than it ought to be under the special Act, the average of all the testings made at such testing place on that day and on the preceding and on the following day shall be deemed to represent the purity of such gas on such one day at such testing place.

10. The company may, if they think fit, on each occasion of the testing at any testing place of the illuminating power, purity, and pressure of the gas supplied by them, be represented by some officer, but such officer shall not interfere in the testing, and the controlling authority shall state at what times it is proposed to make such testings on any particular day upon receiving a request in writing from the company in the forenoon of the previous day.

11. Each gas examiner shall on each day make and deliver a report of the result of the testings of the gas supplied by the company conducted by him on the immediately preceding day to the controlling authority, to the gas referees, to the chief gas examiner, and to the company, and the books kept by a gas examiner for recording the results of the testing of such gas by him shall be open at all reasonable times to the inspection of the company without payment.

12. If the company think themselves aggrieved by any report of a gas examiner they may, within seven days after the day on which that report is delivered to the company, appeal to the chief gas examiner, whose decision after hearing the parties (*h*) shall be final and conclusive, and the chief gas examiner

(*h*) **Hearing the parties.**—The chief gas examiner has a discretion as to whether he will or will not hear counsel. *Reg. v. Williamson*, 59 L. J. Q. B. 493; 55 J. P. 101.

shall forthwith report every such decision to the controlling authority and to the company.

43 & 44 Vict.  
ch. clxxxi.

If in any case the company do not appeal as aforesaid the report of the gas examiner shall be final and conclusive.

13. Within one week after the end of each quarter of a year the chief gas examiner shall make a report to the controlling authority and to the company on the results of the daily testings made in that quarter, and shall state therein with respect to gas supplied by the company, in that quarter—

Quarterly  
report of chief  
gas examiner.

- (1) The illuminating power on each day at each testing place.
- (2) The amount of impurity in each form on each day at each testing place.
- (3) The results of each testing of pressure.

14. If on any day the gas supplied by the company at any testing place is of less illuminating power than it ought to be under the special Act, the company shall be liable to the following forfeitures:

Forfeiture  
for defect  
of power.

For the first half of a candle of defective power, forty shillings; and  
For the first and every subsequent candle of defective power, a sum not less than twenty-five pounds and not exceeding one hundred pounds, having regard to the relative quantities of gas manufactured by the respective companies.

Provided always, that the controlling authority of any testing place having recovered one forfeiture in respect of defective illuminating power in the gas supplied by the company at one testing place on any day shall not be entitled to any further forfeiture in respect of defective illuminating power in the gas supplied by the company at any other testing place of such controlling authority on the same day.

15. If on any day the gas supplied by the company at any testing place is of less purity than it ought to be the company shall forfeit a sum not exceeding fifty pounds for each occasion on which they are so in default.

Forfeiture for  
excess of  
impurity.

Provided always, that the controlling authority of any testing place having recovered one forfeiture in respect of excess of impurity in the gas supplied by the company at one testing place on any day shall not be entitled to any further forfeiture in respect of excess of impurity in the gas supplied by the company at any other testing place of such controlling authority on the same day; and provided also, that the average of the testings made at such testing place on that day and on the preceding and on the following day shall be deemed to represent the purity of such gas on such one day at such testing place.

16. If at any time during any period between midnight and sunset, or during any period between sunset and midnight, the gas supplied by the company is supplied at a pressure less than it ought to be under the special Act, the Company shall in each case forfeit a sum not exceeding ten pounds.

Forfeiture for  
insufficiency  
of pressure.

Provided always, that the controlling authority having recovered one forfeiture in respect of insufficiency of pressure in the gas supplied by the company during any period of twenty-four hours shall not be entitled to any further forfeiture in respect of insufficiency of pressure in the gas supplied by the company during the same period.

17. No forfeiture shall be incurred in any case with respect to which it is certified by the chief gas examiner that the defect of illuminating power, excess of impurity, or insufficiency of pressure was occasioned by an unavoidable cause or accident.

Saving for  
unavoidable  
accident.

18. The report of the chief gas examiner on appeal, or the report of a gas examiner after the time for appeal has elapsed and no appeal has been brought, showing a case of defective illuminating power, excessive impurity in, or insufficient pressure of the gas supplied by the company, shall be conclusive evidence of the liability of the company to a forfeiture in respect thereof, and every forfeiture under this Act shall be leviable by distress, and on proof of any such report before a magistrate at any time within one month after the date of the report, such magistrate shall issue his warrant of distress accordingly.

Evidence of  
liability to  
forfeiture.

19. Every such forfeiture, and any loss arising from fraud of the servants of the company which the auditor (appointed as in the special Act provided) shall certify has arisen from want of due diligence on the part of the directors, shall be borne and paid to the satisfaction of such auditor exclusively by and out of the divisible profits of the company, and by way of reduction of dividend.

Forfeiture and  
losses from  
fraud, &c.



43 & 44 Vict.  
ch. clxxxi.

Recovery of  
forfeitures, &c.  
23 & 24 Vict.  
c. 125.

Repeal of Acts  
to the extent  
specified in  
schedule.

20. Every forfeiture imposed by this Act shall be recovered, applied, and appropriated in the manner provided by sections forty-six and fifty-three of the Metropolis Gas Act, 1860, and the said sections shall be read and construed as applying to forfeitures and the recovery thereof, and otherwise in relation thereto under this Act, as if such forfeitures were penalties under the Metropolis Gas Act, 1860.

21. From and after the passing of this Act the Acts specified in the first column of the schedule to this Act annexed shall within the limits of this Act be and the same are hereby repealed to the extent specified in the second column of that schedule. Provided that this repeal shall not affect—

- (a) The past operation of any enactment hereby repealed, nor anything done or suffered under any enactment hereby repealed;
- (b) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed;
- (c) Any penalty, forfeiture, or punishment incurred in respect of any offence or default committed against any enactment hereby repealed; nor
- (d) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid, and any such investigation, legal proceeding, and remedy may be carried on as if this Act had not passed.

22. [*Expenses of preparing and passing Act.*]

#### SCHEDULE.

##### SETTING FORTH THE ENACTMENTS REPEALED BY THE FOREGOING ACT.

| Acts.                                                         | Extent of Repeal.                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The Gaslight and Coke Company, Act, 1876.                     | So much of secs. 27 and 34 as relates to the pressure of gas; and Secs. 40—56. both inclusive.                                                                                                                                                                                  |
| The Commercial Gas Act, 1875.                                 | In sec. 32 the following words "one such place being prescribed for every station from which gas is supplied in the district supplied from such station," and so much of the said section and of sec. 26 as relates to the pressure of the gas and Secs. 37—51, both inclusive. |
| The South Metropolitan Gaslight and Coke Company's Act, 1876. | So much of secs. 28 and 35 as relates to the pressure of the gas: and Secs. 41—56, both inclusive.                                                                                                                                                                              |

## HIGHWAYS.

|                                                                        |          |
|------------------------------------------------------------------------|----------|
| 24 & 25 Vict. c. 70 ("Locomotive Act, 1861").....                      | page 935 |
| 28 & 29 Vict. c. 83 ("Locomotives Act, 1865").....                     | 936      |
| 41 & 42 Vict. c. 77 ("Highways and Locomotives (Amendment) Act, 1878") | 938      |
| 59 & 60 Vict. c. 36 ("Locomotives on Highways Act, 1896") .....        | 946      |

## LOCOMOTIVE ACT, 1861.

**24 & 25 Vict. c. 70.** An Act for regulating the Use of Locomotives on Turnpike and other Roads : and the Tolls to be levied on such Locomotives and on the Waggon and Carriages drawn or propelled by the same. [1st August, 1861]

1. [Scale of tolls to be taken after passing of this Act. *Local.*]
2. [Repeal of former enactments as to tolls to be taken for locomotives.]
3. [As to the size and weight of locomotives. *Rep. as to England by Highways and Locomotives Act, 1878, sec. 28 (temp.), post.*]

4. It shall not be lawful for any waggon, wain, cart, or other carriage so drawn or propelled as aforesaid, not having cylindrical wheels, to carry any greater weight than is permitted in such waggon, wain, cart or carriage by the General Turnpike Act; and it shall not be lawful for any waggon, wain, cart, or other carriage having cylindrical wheels to carry over or above the weight of the waggon, wain, cart, or carriage, any greater weight than one ton and a half for each pair of wheels, unless the fellys, tires, or shoes are four inches or more in breadth; nor to carry a greater weight than two tons for each pair of wheels unless the fellys, tires, or shoes are six inches or more in breadth; nor to carry a greater weight than three tons for each pair of wheels, unless the fellys, tires, or shoes are eight inches or more in breadth; and for every single wheel one half of that permitted to be carried on a pair of wheels; nor in any case to carry a greater weight than four tons on each pair of wheels, or two tons on each wheel; but if such waggons, wains, or other carriages are built and constructed with springs upon each axle, then they shall be allowed to carry one sixth more weight in addition to the above-mentioned weights upon each pair of wheels: Provided always that the regulation of weight herein-mentioned and provided shall not extend to any waggon, wain, cart, or other carriage carrying only one tree, or one log of timber, or one block of stone, or one cable or rope, or one block, plate, roll, or vessel of iron or other metal, or compounded of any two or more metals cast, wrought, or united in one piece.

As to the weight on each pair of wheels.

5. [Power of Secretary of State to prohibit the use of locomotives destructive to highways or dangerous to the public. *Rep. as to England by Locomotives Act, 1865, sec. 2 (temp.), post.*]

6. It shall not be lawful for the owner or driver of any locomotive (a) to drive it over any suspension bridge nor over any bridge on which a conspicuous notice has been placed, by the authority of the surveyor or persons liable to the repair of the bridge, that the bridge is insufficient to carry weights beyond the ordinary traffic of the district, without previously obtaining the consent of the surveyor of the road or bridgeman under whose charge such bridge shall be for the time being, or of the persons liable to the repair of such bridge; and in case such owner of the locomotive and surveyor of the road or bridge, or bridgeman, shall differ in opinion as to the sufficiency of any bridge to sustain the transit of the locomotive, then the question shall be determined by an officer to be appointed, on the application of either party, by one of Her Majesty's principal Secretaries of State, whose certificate of sufficiency of such bridge shall entitle the owner of the locomotive to take the same over such bridge.

Use of locomotives restricted over suspension and other bridges.

7. [Damage caused by locomotives to bridges to be made good by owners (b).]

(a) **Any locomotive.**—The provisions of this section do not apply to "light locomotives" under three tons in weight. Locomotives on Highways Act, 1896, sec. 1, *post.*

(b) **Damage to bridges.**—This section does not apply to county bridges, but is limited to bridges which are the property of, or which pass over canals, railways, and the like property of, persons such as conservators, trustees, &c., interested in or having the

24 & 25 Vict.  
c. 70.

Exemption  
from tolls of  
waggons, &c.,  
now exempt  
under any  
General or  
Local Act.  
Provisions of  
General Acts  
relating to  
turnpike roads  
to apply to  
locomotives.

Right of action  
in case of  
nuisance.

Short title.

8. [*Locomotives propelled by steam to consume their own smoke. Rep. and replaced as to England by Highways and Locomotives (Amend.) Act, 1878, sec. 30 (temp.), post.*]

9. [*As to the number of persons in charge of locomotive and waggons. Rep. and replaced as to England by Locomotives Act, 1865, secs. 2 and 3 (temp.) post.*]

10. All waggons, wains, carts, or carriages, as hereinbefore described, drawn by any locomotive, and loaded with any materials such as are now exempt from toll under the provisions of any general or local Act, shall be entitled to the same exemption as they would be if drawn by animal power.

11. [*Limit of speed of locomotives on public highways, &c. Rep. and replaced as to England by Locomotives Act, 1865, secs. 2 and 4 (temp.), post.*]

12. All the clauses and provisions of any general or local Acts relating to turnpike roads or highways shall, so far as the same are not expressly altered or repealed by or are not inconsistent with the provisions of this Act, apply to all locomotives propelled by other than animal power, and to all waggons, wains, carts, and carriages of any other description drawn by such locomotive, and to the owners, drivers, and attendants thereof, in like manner as if drawn by animal power: Provided always that the weight of every locomotive, and the name of the owner or owners thereof, shall be conspicuously and legibly affixed thereon; and any owner not having affixed such weight and such name shall, upon conviction thereof before two justices, forfeit any sum not exceeding five pounds; and any owner who shall fraudulently affix thereon any incorrect weight shall, upon conviction thereof, forfeit any sum not exceeding ten pounds.

13. Nothing in this Act contained shall authorise any person to use upon a highway a locomotive engine which shall be so constructed or used as to cause a public or private nuisance; and every such person so using such engine shall, notwithstanding this Act, be liable to an indictment or action, as the case may be, for such use where, but for the passing of this Act, such indictment or action could be maintained (c).

14. This Act may be cited as the "Locomotive Act, 1861."

## LOCOMOTIVES ACT, 1865.

28 & 29 Vict. c. 83. An Act for further regulating the Use of Locomotives on Turnpike and other Roads for agricultural and other Purposes. [5th July, 1865]

[*Preamble Recites the Locomotives Act, 1861.*]

Duration of  
Act.

1. This Act . . . shall cease and determine on the first of September one thousand eight hundred and sixty-seven d).

charge of such canal, railway, &c., or such bridge. The rights of the public are protected by secs. 6 and 13. *Reg. v. Kitchener*, L. R. Q. C. C. R. 88; 43 L. J. M. C. 9.

(c) **Liability to indictment or action.**—An action is maintainable for injuries caused through a horse taking fright at a traction engine or steam roller, if it is a nuisance to a person using the highway. Compliance with the statute and absence of negligence do not constitute a defence to an action. Whether such steam roller, &c., is a nuisance dangerous to the public is one of fact, depending upon the circumstances of each particular case. *Watkins v. Reddin*, 2 F. & F. 629; *Jeffery v. St. Pancras Vestry*, 63 L. J. Q. B. 618; 10 R. 554. As to liability to indictment for obstructing a highway with locomotive engines, see *Reg. v. Chittenden*, 49 J. P. 503; 15 Cox C. C. 725. The owner of a locomotive engine, which he has no statutory power to use, is liable for damage done by sparks escaping therefrom, notwithstanding absence of negligence; and his liability is not restricted by the Locomotives Act. *Powell v. Ebb*, 5 Q. B. D. 597; 42 L. J. Q. B. 428. Where, however, a locomotive engine is used under express statutory power, there must be negligence in order to establish liability. *Vaughan v. Taff Vale Rly. Co.*, 5 H. & N. 679; 29 L. J. Ex. 247; *Port Glasgow and Newark Sailcloth Co. v. Caledonian Rly. Co.*, 9 T. L. R. 300. The owner of a traction engine let the same for three months. From the negligent management of the engine whilst it was being used on a highway by the hirer, injuries were caused to the plaintiff. *Held*, that the owner was not liable. *Smith v. Bailey* (1891), 2 Q. B. 403; 60 L. J. Q. B. 779.

(d) **Duration of Act.** This Act is continued to December 31st, 1897, by the Expiring Laws Continuance Act, 1896 (59 & 60 Vict. c. 39).



2. After the commencement of this Act, and so long as the same shall continue in force, the fifth, ninth, eleventh, and fifteenth sections of the said recited Act, and all orders made in pursuance of the said fifth section, are hereby repealed.

3. Every locomotive (*e*) propelled by steam or any other than animal power on any turnpike road or public highway shall be worked according to the following rules and regulations; viz.:

Firstly, at least three persons shall be employed to drive or conduct such locomotive, and if more than two waggons or carriages be attached thereto, an additional person shall be employed, who shall take charge of such waggons or carriages.

Secondly (*f*) . . .

Thirdly, the drivers of such locomotives shall give as much space as possible for the passing of other traffic:

Fourthly, the whistle of such locomotive shall not be sounded for any purpose whatever; nor shall the cylinder taps be opened within sight of any person riding, driving, leading, or in charge of a horse upon the road; nor shall the steam be allowed to attain a pressure such as to exceed the limit fixed by the safety valve, so that no steam shall blow off when the locomotive is upon the road:

Fifthly, every such locomotive shall be instantly stopped, on the person preceding the same, or any other person with a horse, or carriage drawn by a horse, putting up his hand as a signal to require such locomotive to be stopped:

Sixthly, any person in charge of any such locomotive shall provide two efficient lights to be affixed conspicuously, one at each side on the front of the same, between the hours of one hour after sunset and one hour before sunrise:

In the event of a non-compliance with any of the provisions of this section, the owner of the locomotive shall, on summary conviction thereof before two justices, be liable (*g*) to a penalty not exceeding ten pounds; but it shall be lawful for such owner, on proving that he has incurred such penalty by reason of the negligence or wilful default of any person in charge of or in attendance on such locomotive, to recover summarily from such person the whole or any part of the penalty he may have incurred as owner.

4. Subject and without prejudice to the regulations hereinafter authorised to be made by local authorities, it shall not be lawful to drive any such locomotive (*e*) along any turnpike road or public highway at a greater speed than four miles an hour, or through any city, town, or village at a greater speed than two miles an hour (*h*); and any person acting contrary thereto shall for every such offence, on summary conviction thereof, forfeit any sum not exceeding ten pounds.

5. [*Size and weight of locomotives which may be used. Rep. and replaced as to England by Highways and Loco. (Amend.) Act, 1878, sec. 29, post.*]

6. Any provision in any Act contained prohibiting, under penalty, the erection and use of any steam engine, gin, or other like machine, or any machinery attached thereto, within the distance of twenty-five yards from any part of any turnpike road, highway, carriageway, or cartway, unless such steam engine, gin, or other like engine or machinery be within some house or other building, or behind some wall, fence, or screen sufficient to conceal or screen the same

28 & 29 Vict.  
c. 83.

Certain sections of 24 & 25 Vict. c. 70, repealed. Rules for the manner of working locomotives on turnpike roads and highways as herein stated.

Penalty on non-compliance with rules.

Limit of speed of locomotives on turnpike roads and highways.

Restrictions as to the use of steam engines within 25 yards of roads not to apply to locomotives used for ploughing purposes.

(*e*) **Every locomotive.**—This Act does not apply to “light locomotives” under three tons in weight. Locomotives on Highways Act, 1896, sec. 1, *post*.

(*f*) **Secondly.** The paragraph numbered “secondly” is repealed, and the following provision substituted, by the Highways and Locomotives (Amend.) Act, 1878, sec. 29, *post* :—“Secondly, one of such persons while the locomotive is in motion, shall precede by at least twenty yards the locomotive on foot, and shall in case of need assist horses, and carriages drawn by horses, passing the same.” This section is not the less complied with because the person preceding the locomotive on foot leads a horse and cart. *Davis v. Browne*, 48 L. J. M. C. 92 : 43 J. P. 416.

(*g*) **Owner liable.**—See *Smith v. Bailey*, *ante*, p. 936.

(*h*) **Through any city, &c.**—This section was held to apply to a railway company, which, without statutory powers, though with the leave of the parties interested in the soil of the highway, laid rails in the streets of a town, and ran engines and carriages thereon. *London and South Western Rly. Co. v. Myers*, 45 J. P. 731.

- 28 & 29 Vict. c. 83. from such turnpike road, highway, carriageway, or cartway (*i*), shall not extend to prohibit the use of any locomotive steam engine for the purpose of ploughing (*k*) within such distance of any such turnpike road, highway, carriageway, or cartway, provided a person shall be stationed in the road, and employed to signal the driver when it shall be necessary to stop, and to assist horses, and carriages drawn by horses, passing the same, and provided the driver of the engine do stop in proper time.
- Name and residence of owner to be affixed to locomotives. 7. The name and residence of the owner of every locomotive (*l*) shall be affixed thereto in a conspicuous manner. If it is not so affixed the owner shall, on summary conviction, be liable to a penalty not exceeding two pounds.
8. [*Power to local authorities to make orders as to hours, &c., locomotives may pass through cities, &c. Rep. and replaced as to England by Highways and Loco. (Amend.) Act, 1878, sec. 31, post.*]
- 9—10. [*Provisions respecting Ireland.*]
- Sec. 41 of 25 & 26 Vict. c. 93, not to be affected. Saving as to actions at law. 11. Nothing in this Act contained shall repeal, alter, or in any way affect the provisions of the forty-first section of "The Thames Embankment Act, 1862" (*m*).
12. Nothing in this Act contained shall authorise any person to use a locomotive which may be so constructed or used as to be a public nuisance at common law, and nothing herein contained shall affect the right of any person to recover damages in respect of any injury he may have sustained in consequence of the use of a locomotive (*n*).
- Short title. 13. This Act may be cited as "The Locomotives Act, 1865;" and "The Locomotives Act, 1861," and this Act, shall be construed together as one Act.

## HIGHWAYS AND LOCOMOTIVES (AMENDMENT) ACT, 1878.

41 & 42 Vict. c. 77. An Act to amend the Law relating to Highways in England and the Acts relating to Locomotives on Roads; and for other purposes. [16th August, 1878]

### Preliminary.

- Short title. 1. This Act may be cited as the Highways and Locomotives (Amendment) Act, 1878.
- Application of Act. 2. . . . Save as is by this Act expressly provided, part one of this Act shall not apply . . . to any part of the Metropolis . . . (*o*)

### PART I.

3—9. [*Formation and accounts of highway districts. Inapplicable to London.*]

Power of county authority to enforce performance of duty by defaulting highway authority. 10. Where complaint is made to the county authority (*p*) that the highway

(*i*) **Prohibition in any Act.**—The Highway Act, 1835 (5 & 6 Will. 4, c. 50), sec. 70, forbids the erection of steam engines, &c., within twenty-five yards of any carriageway, &c., unless within some house or building, or behind some wall or fence, sufficient to conceal or screen the same from the carriageway, &c., so as not to be dangerous to passengers, horses, or cattle.

(*k*) **Engine for ploughing.**—A similar exemption with respect to threshing engines is contained in the Locomotive Threshing Engines Act, 1894 (57 & 58 Vict. c. 37).

(*l*) **Every locomotive.** See note to sec. 3, *supra*.

(*m*) **The Thames Embankment Act, 1862,** sec. 41, enacts that "It shall not be lawful for any person to use a locomotive engine propelled by steam along streets or roadways constructed under the provisions of the Act."

(*n*) **Actions at law.**—Compare this section with sec. 13 of the Locomotive Act, 1861, *ante*, and see note thereto.

(*o*) **Application of Act to London.**—The provisions of part i. with respect to main roads are now extended to the Metropolis by the Loc. Govt. Act, 1888, sec. 41 (4), *ante*.

(*p*) **County authority.**—Now the County Council. Loc. Govt. Act, 1888, sec. 11 (1), *ante*, vol. i. The London County Council has, however, power under the above

authority of any highway area within their jurisdiction has made default in maintaining or repairing all or any of the highways within their jurisdiction, the county authority, if satisfied after due inquiry and report by their surveyor that the authority has been guilty of the alleged default, shall make an order limiting a time for the performance of the duty of the highway authority in the matter of such complaint.

41 & 42 Vict.  
c. 77.

If such duty is not performed by the time limited in the order, and the highway authority fail to show to the county authority sufficient cause why the order has not been complied with, the county authority may appoint some person to perform such duty (*g*), and shall by order direct that the expenses of performing the same, together with the reasonable remuneration of the person appointed for superintending such performance, shall be paid by the authority in default, and any order made for payment of such expenses and costs may be removed into the High Court of Justice, and be enforced in the same manner as if the same were an order of such court.

Any person appointed under this section to perform the duty of a defaulting highway authority shall, in the performance and for the purpose of such duty, be invested with all the powers of such authority other than the powers of making rates or levying contributions by precept, and the county authority may from time to time, by order, change any person so appointed.

Where an order has been made by a county authority for the repair of a highway on a highway authority alleged to be in default, if such authority, within ten days after service on them of the order of the county authority, give notice to the clerk of the peace that they decline to comply with the requisitions of such order until their liability to repair the highway in respect to which they are alleged to have made default has been determined by a jury, it shall be the duty of the county authority either to satisfy the defaulting authority by cancelling or modifying in such manner as the authority may desire the order of the county authority, or else to submit to a jury the question of the liability of the defaulting authority to repair the highway.

If the county authority decide to submit the question to a jury they shall direct a bill of indictment (*r*) to be preferred to the next practicable assizes to be holden in and for their county, with a view to try the liability of the defaulting authority to repair the highway. Until the trial of the indictment is concluded the order of the county authority shall be suspended. On the conclusion of the trial, if the jury find the defendants guilty, the order of the county authority shall forthwith be deemed to come into force; but if the jury acquit the defendants the order of the county authority shall forthwith become void.

The costs of the indictment, and of the proceedings consequent thereon, shall be paid by such parties to the proceedings as the court before whom the case is tried may direct. Any costs directed to be paid by the county authority shall be deemed to be expenses properly incurred by such authority, and shall be paid accordingly out of the county rate; and any costs directed to be paid by the highway authority shall be deemed to be expenses properly incurred by such authority in maintenance of the roads within their jurisdiction, and shall be paid out of the funds applicable to the maintenance of such roads.

11. [*Duration of office of waywarden.*]

12. [*Rep. 46 & 47 Vict. c. 39. Statute Law Revision.*]

#### *Main Roads.*

13. For the purposes of this Act, and subject to its provisions, any road which has, within the period between the thirty-first day of December one thousand eight hundred and seventy and the date of the passing of this Act, ceased to be

Disturnpiked  
roads to  
become main  
roads.

section only where a highway authority makes default in maintaining or repairing a main road which such authority has undertaken to maintain and repair under sec. 11 (4) or sec. 41 (4) (b) of that Act. See also *ib.*, sec. 3 (viii.) and note thereto.

(*g*) **May appoint some person.**—See further as to the power of the county council where a highway authority makes default in repairing a main road which it has undertaken to maintain, the Loc. Govt. Act, 1888, sec. 11 (8), *ante*, vol. i.

(*r*) **Bill of indictment.**—A highway authority cannot be indicted at common law for the non-repair of a highway. *Reg. v. Poole (Mayor of)*, 19 Q. B. D. 602; 56 L. J. M. C. 131. But an indictment for non-repair will lie against them under the present section. *Reg. v. Wakefield (Mayor, &c., of)*, 20 Q. B. D. 810; 57 L. J. M. C. 52.



41 & 42 Vict. c. 77. — a turnpike road, and any road which, being at the time of the passing of this Act a turnpike road, may afterwards cease to be such, shall be deemed to be a main road (s) . . .

Description of highway areas. 14. The following areas shall be deemed to be highway areas for the purposes of this Act; that is to say—

(1) Urban sanitary districts (t) . . .

Power to declare ordinary highway to be a main road.

15. Where it appears to any highway authority (u) that any highway within their district ought to become a main road by reason of its being a medium of communication between great towns, or a thoroughfare to a railway station, or otherwise, such highway authority may apply to the county authority (x) for an order declaring such road, as to such parts as aforesaid, to be a main road; and the county authority (x), if of opinion that there is probable cause for the application, shall cause the road to be inspected, and, if satisfied that it ought to be a main road, shall make an order accordingly.

A copy of the order so made shall be forthwith deposited at the office of the clerk of the peace (y) of the county, and shall be open to the inspection of persons interested at all reasonable hours; and the order so made shall not be of any validity unless and until it is confirmed by a further order of the county authority made within a period of not more than six months after the making of the first-mentioned order (z).

Power to reduce main road to status of ordinary highway.

16. Where it appears to a county authority (x) that any road within their county which has become a main road in pursuance of this Act ought to cease to be a main road and become an ordinary highway, such authority may apply to the Local Government Board for a provisional order declaring that such road has ceased to be a main road and become an ordinary highway.

The Local Government Board, if of opinion that there is probable cause for an application under this section, shall cause the road to be inspected, and if satisfied that it ought to cease to be a main road and become an ordinary highway shall make a provisional order accordingly, to be confirmed as herein-after mentioned (a).

(s) **Turnpike road. Main road.**—A turnpike road means a public road having toll gates or bars across it, which were originally called "turns," and over which the public have a right to pass, subject to the payment of toll. *Northam Bridge and Roads Co. v. London and Southampton Rly. Co.*, 6 M. & W. 428; 4 Jur. 892; *Ansterberry v. Oldham Corporation*, 29 Ch. D. 750; 55 L. J. Ch. 633. Such roads no longer exist in the Metropolis.

The following roads in the Metropolis ceased to be turnpike roads since 1877, and are therefore main roads:—*Hackney*: Lea Bridge road; *Hampstead*: Finchley road and Edgware road; *Islington*: Archway road; *Kensington*: Harrow road; *Limchouse*: Commercial road east, East India Dock road, Horseferry branch road, and West India Dock road; *Mile End Old Town*: Commercial road east; *Poplar*: East India Dock road, West India Dock road, and East and West Ferry roads; *St. George's-in-the-East*: Commercial road east; *Stoke Newington*: Green lanes, from parish boundary at Tottenham southward to parish boundary near Clissold park and Seven Sisters road. London Coun. Council. Annual Report, 1896, p. 45. The duty of maintaining and repairing these roads rests with the County Council. Loc. Govt. Act, 1888, sec. 11 (1), *ante*, vol. i.

The remainder of sec. 13 is repealed by 57 & 58 Vict. c. 56, Statute Law Revision.

(t) **Urban sanitary districts.**—For the purposes of this Act, with respect to main roads, the City of London and the parishes in sched. (A.) and the districts in sched. (B.) of the Met. Man. Act, 1855, are deemed to be urban sanitary districts. Loc. Govt. Act, 1888, sec. 41 (4), *ante*, vol. i.

(u) **Highway authority.** i.e., the Commissioners of Sewers in the City of London, and the vestries in sched. (A.) and the district boards in sched. (B.) of the Met. Man. Act, 1855, in the remainder of the county. Loc. Govt. Act, 1888, sec. 41 (4), *ante*, vol. i.

(x) **County authority.**—Now the county council. See note to sec. 10, *supra*.

(y) **Clerk of the peace.**—Now the clerk of the county council. Loc. Govt. Act, 1888, secs. 11 (1) and 83 (6), *ante*, vol. i.

(z) **Confirmed by further order.**—Where the county council declare a road to be a main road such declaration shall not take effect until the road has been placed in proper repair and condition to the satisfaction of the council. Loc. Govt. Act, 1888, sec. 11 (7), *ante*, vol. i.

(a) **Reduction of main road to ordinary highway.**—"Notwithstanding anything contained in the Highways and Bridges Act, 1891, sec. 16 of the Highways and Locomotives (Amendment) Act, 1878, shall apply to any part of a main road in the county of

All expenses incurred in or incidental to the making or confirmation of any order under this section shall be defrayed by the county authority (*b*) applying for such order.

41 & 42 Vict.  
c. 77.

17. [*Turnpike road in several counties.*]

18. Every highway authority shall keep, in such form as may be directed by the county authority, a separate account of the expenses of the maintenance of the main roads within their jurisdiction, and shall forward copies thereof to the county authority at such time or times in every year as may be required by the county authority, and the accounts so kept shall, *where the accounts of the highway authority are audited under this Act or under section two hundred and forty-seven of the Public Health Act, 1875, be audited in the same manner as the other accounts of such authority* (*c*), and where the accounts of the highway authority are not so audited shall be subject to such audit as the county authority may direct.

Accounts of expenses of maintenance of main roads.

38 & 39 Vict.  
c. 55.

If any highway authority makes default in complying with the provisions of this section, or with any directions given in pursuance thereof by the county authority, the county authority may withhold all or any part of the contribution payable by them under this Act towards the expenses of the maintenance of main roads by such highway authority for the year in which such default occurs.

19. [*Highway district situate in more than one county.*]

20. [*Repair of main roads in hundreds.*]

*Bridges.*

21. [*Certain existing bridges may be accepted by county authority.*]

22. [*Contribution out of county rates towards erecting bridges.*]

*Extraordinary Traffic.*

23. (*d*) Where by a certificate of their surveyor (*e*) it appears to the authority which is liable or has undertaken to repair any highway, whether a main road or not, that, having regard to the average expense of repairing highways in the neighbourhood, extraordinary expenses have been incurred by such authority in repairing such highway by reason of the damage caused by excessive weight (*f*) passing along the same, or extraordinary traffic (*g*) thereon, such authority may

Power of road authority to recover expenses of extraordinary traffic.

London (not including the City of London), and an order made by the Local Government Board declaring that any road or part of a road in the county of London (not including the City of London) has ceased to be a main road and become an ordinary highway shall be valid and final without confirmation by Parliament, on such terms as to compensation as may be decided by the Local Government Board." London Coun. Counc. (Genl. Powers) Act, 1896 (59 & 60 Vict. ch. clxxxviii.), sec. 31. Sec. 2 of the Highways and Bridges Act, 1891 (54 & 55 Vict. c. 64), expressly excludes the county of London from the operation of that Act.

(*b*) **County authority.**—See note (*x*) on page 940.

(*c*) **Accounts of highway authority.**—The words in italics do not apply to the Metropolis.

(*d*) **Section 23.**—This section only applies to London in so far as it relates to main roads. See sec. 2 and note thereto, *ante*.

(*e*) **Certificate of surveyor.**—The certificate of the surveyor is not bad because it includes more than one highway and does not particularise or describe the highways included. A separate certificate need not be given in respect of each highway. *Wirral Highway Bd. v. Newell* (1895), 1 Q. B. 827; 64 L. J. M. C. 181.

(*f*) **Excessive weight.**—The term "excessive weight" is applicable to each body of traffic separately while it is on the road, and the whole weight carried at different times cannot be added together so as to constitute excessive weight. Per Lord Esher, *M. R., in Kent Coun. Counc. v. Vidler, infra*.

(*g*) **Extraordinary traffic.**—Extraordinary traffic is a carriage of articles over a road, at either one or more times, which is so exceptional in the quality or quantity of articles carried, or in the mode or time of user of the road as substantially to alter and increase the burden imposed by ordinary traffic on the road, and to cause damage and expenses thereby beyond what is common. The expression "extraordinary traffic," as distinguished from excessive weight, includes all such continuous or repeated user of the road by a person's vehicles as is out of the common order of traffic, and as may be calculated to damage the highway and increase the expenditure on its repair.

41 & 42 Vict.  
c. 77.

recover in a summary manner (*h*) from any person by whose order (*i*) such weight or traffic has been conducted the amount of such expenses as may be proved to the satisfaction of the court having cognizance of the case to have been incurred by such authority by reason of the damage arising from such weight or traffic as aforesaid.

Provided that any person against whom expenses are or may be recoverable under this section may enter into an agreement with such authority as is mentioned in this section for the payment to them of a composition in respect of such weight or traffic, and thereupon the persons so paying the same shall not be subject to any proceedings under this section.

*Discontinuance of unnecessary Highways.*

24. [*Unnecessary highways may be declared not repairable at the public expense.*]

*Appointment of Surveyors in certain Parishes.*

25. [*Removal of doubt as to appointment of surveyors in certain parishes.* 5 & 6 W. 4, c. 50.]

*Byelaws by County Authority.*

Power of  
county author-  
ity to make  
byelaws.

26 (*k*). A county authority may from time to time make, with respect to all or any main roads or other highways within any highway area in their county, and when made alter or repeal, byelaws for all or any of the purposes following; that is to say—

(1) For prohibiting or regulating the use of any waggon, wain, cart, or carriage drawn by animal power and having wheels of which the felloes or tires are not of such width in proportion to the weight carried by, or to the size of, or to the number of wheels of such waggon, wain, cart, or carriage, as may be specified in such byelaws; and

*Hill v. Thomas* (1893), 2 Q. B. 333; 62 L. J. M. C. 161; where the previous cases on the subject are collected. See also *Etherley Grange Coal Co. v. Auckland District Highway Bd.* (1894), 1 Q. B. 37; 58 J. P. 102; *Lower Strathfirth Highway Bd. v. Hatfield Chase Co.*, 57 J. P. 567; and *Wolverhampton (Mayor, &c., of) v. Salop County Council*, 64 L. J. M. C. 179; 43 W. R. 494.

(*h*) **Summary proceedings.**—See note to sec. 227 of the Met. Man. Act, 1855, *ante*, vol. i., as to summary proceedings. They must be brought within six months from the time when the matter of complaint arises. Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), sec. 11. In *White v. Colson*, 46 J. P. 565, it was held that the six months dated from the certificate and demand of payment, and not from the time when the repairs were executed. But in two later cases, in which *White v. Colson* does not appear to have been cited, it was held that the limitation of six months dates from the surveyor's certificate, and not from the time of damage or demand. *Pool Highway Bd. v. Gunning*, 51 L. J. M. C. 49; 46 J. P. 708. *Wirral Highway Bd. v. Newell*, *supra*.

(*i*) **Person by whose order.**—Where a person employs a carrier to cart goods, but makes no stipulation as to the mode of conveyance, and the carrier uses traction engines with excessively heavy loads, and thereby causes damage to the highway, the carrier is the only person liable. *Lapthorn v. Harvey*, 49 J. P. 709. Contractors who contracted to convey goods over a highway by means of traction engines with waggons attached were held to be "persons by whose order" the traffic was conducted, notwithstanding that their employers indicated the times at which they were ready to receive the goods. *Colchester, Wemyss & Co. v. Gloucestershire County Council*, 66 L. J. Q. B. 290. But a person who ordered goods to be conveyed along a road at various times by various contractors, the whole quantity conveyed amounting to extraordinary traffic, though no single load was of excessive weight, was held to be liable as the person who ordered the goods to be conveyed. *Kent Coun. Council v. Vidler* (1895), 1 Q. B. 448; 64 L. J. M. C. 77. A person who purchases goods at a price including delivery, but neither directs nor has control over the mode of carriage, is not liable for damage done by traction engines conveying such goods. *Gerard v. Kent Coun. Council* (1897), 1 Q. B. 351; 66 L. J. Q. B. 251. The proceedings are in the nature of an action for a personal tort, and cannot be taken against the executor of a person by whose order extraordinary traffic has been conducted. *Story v. Sheard* (1892), 2 Q. B. 515; 61 L. J. M. C. 178.

(*k*) **Section 26.**—This section only applies to London in so far as it relates to main roads. See sec. 2 and note thereto, *ante*.



- (2) For prohibiting or regulating the use of any waggon, wain, cart, or other carriage drawn by animal power not having the nails on its wheels counter-sunk in such manner as may be specified in such byelaws, or having on its wheels bars or other projections forbidden by such byelaws; and
- (3) For prohibiting or regulating the locking of the wheel of any waggon, wain, cart, or carriage drawn by animal power when descending a hill, unless there is placed at the bottom of such wheel during the whole time of its being locked a skidpan slipper or shoe in such manner as to prevent the road from being destroyed or injured by the locking of such wheel; and
- (4) For prohibiting or regulating the erection of gates across highways, and prohibiting gates opening outwards on highways; and
- (5) [*Bicycles. Rep. Loc. Govt. Act, 1888, sec. 85.*]

41 & 42 Vict.  
c. 77.

Fines to be recovered summarily may be imposed by any such byelaws on persons breaking any byelaw made under this section, provided that no fine exceeds for any one offence the sum of two pounds, and that the byelaws are so framed as to allow of the recovery of any sum less than the full amount of the fine.

*Saving for Minerals.*

27. [*Minerals under disturnpiked roads to belong to person entitled if roads not vested in local authority (l).*]

PART II (*m*).

AMENDMENT OF LOCOMOTIVE ACTS, 1861 AND 1865.

28. It shall not be lawful to use on any turnpike road or highway a locomotive constructed otherwise than in accordance with the following provisions; that is to say—

- (1) A locomotive (*m*) not drawing any carriage, and not exceeding in weight three tons, shall have the tires of the wheels thereof not less than three inches in width, with an additional inch for every ton or fraction of a ton above the first three tons; and
- (2) A locomotive (*m*) drawing any waggon or carriage shall have the tires of the driving wheels thereof not less than two inches in width for every ton in weight of the locomotive, unless the diameter of such wheels shall exceed five feet, when the width of the tires may be reduced in the same proportion as the diameter of the wheels is increased, but in such case the width of such tires shall not be less than fourteen inches; and
- (3) A locomotive (*m*) shall not exceed nine feet in width or fourteen tons in weight, except as hereinafter provided; and
- (4) (*n*) The driving wheels of a locomotive (*m*) shall be cylindrical and smooth-soled, or shod with diagonal cross-bars of not less than three inches in width nor more than three-quarters of an inch in thickness, extending the full breadth of the tire, and the space intervening between each such cross-bar shall not exceed three inches.

Weight of  
locomotives  
and construc-  
tion of wheels.

The owner of any locomotive (*m*) used contrary to the foregoing provisions shall for every such offence be liable to a fine not exceeding five pounds: Provided that the *mayor, aldermen, and commons* in the City of London (*o*), and the *Metropolitan Board of Works* (*p*) in the Metropolis, exclusive of the City of London, and the council of any borough which has a separate court of quarter sessions, and the county authority of any county, may, on the application of the owner of any locomotive exceeding nine feet in width or fourteen tons in weight, authorise

(*l*) **Minerals.**—See *Brownhills Local Bd. v. Conduit Colliery Co.* (1895), 1 Q. B. 301; 64 L. J. Q. B. 207.

(*m*) **Any Locomotive.**—These provisions do not apply to light locomotives under three tons in weight. Locomotives on Highways Act, 1896, sec. 1, *post*.

(*n*) **Section 28 (4).**—The requirements of subsection (4) may be varied by order of the Loc. Govt. Bd. Locomotives on Highways Act, 1896, sec. 9, *post*.

(*o*) **Mayor, aldermen, and commons,** i.e., the Common Council. Save that if any difference is made by the byelaws or authority of the Common Council between any main road maintained by the County Council and the other roads in the City, such byelaws and authority require the approval of the County Council. Loc. Govt. Act, 1888, sec. 41 (4) (a), *ante*, vol. i.

(*p*) **Met. Bd. Wks.**—Now the County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

41 & 42 Vict.  
c. 77.

such locomotive to be used on any turnpike road or highway within the areas respectively above mentioned, or part of any such road or highway, under such conditions (if any) as to them may appear desirable. Provided also, that the owner of a locomotive used contrary to the provisions of sub-section two of this section shall not be deemed guilty of an offence under this section if he proves to the satisfaction of the court having cognizance of the case that such locomotive was constructed before the passing of this Act, and that the tires of the wheels thereof are not less than nine inches in width.

29. [*Amendment of Locomotives Act, 1865, sec. 3. Set out in note to that section, ante.*]

Steam loco-  
motives to be  
constructed so  
as to consume  
their smoke.

30. [*Repeal of Locomotives Act, 1861, sec. 8.*] Every locomotive used on any turnpike road or highway shall be constructed on the principle of consuming its own smoke; and any person using any locomotive not so constructed, or not consuming, so far as practicable, its own smoke, shall be liable to a fine not exceeding five pounds for every day during which such locomotive is used on any such turnpike road or highway (*q*).

Power to local  
authorities to  
make orders as  
to hours during  
which locomot-  
ives may pass  
over roads.

31. [*Repeal of Locomotives Act, 1865, sec. 8.*] The mayor, aldermen, and commons in the City of London (*r*), and the *Metropolitan Board of Works* (*s*) in the Metropolis, exclusive of the City of London, and the council of any borough which has a separate court of quarter sessions, and the county authority of any county, may make byelaws as to the hours during which locomotives (*t*) are not to pass over the turnpike roads or highways situate within the areas respectively above-mentioned, the hours being in all cases consecutive hours and no more than eight out of the twenty-four, and for regulating the use of locomotives upon any highway, or preventing such use upon every bridge where such authority is satisfied that such use would be attended with danger to the public; and any person in charge of a locomotive acting contrary to such byelaws shall be liable to a fine not exceeding five pounds.

Power of  
county author-  
ity to license  
locomotives.

32. A county authority may from time to time make, alter, and repeal byelaws for granting annual licences to locomotives used within their county, and the fee (not exceeding ten pounds) to be paid in respect of each licence; and the owner of any locomotive for which a licence is required (*u*) under any byelaw so made who uses or permits the same to be used in contravention of any such byelaw shall be liable to a fine not exceeding forty shillings for every day on which the same is so used.

All fees received under this section shall be carried to and applied as part of the county rate.

This section shall not apply to any locomotive used solely for agricultural purposes.

Duration of  
part ii. of Act.  
28 & 29 Vict.  
c. 83.

33. This part of this Act shall remain in force so long only as the Locomotives Act, 1865, continues in force.

### PART III.

#### *Procedure and Definitions.*

Confirmation  
of provisional  
order.

34. It shall be lawful for the Local Government Board to submit any provisional order made by them under this Act to Parliament for confirmation, and without such confirmation a provisional order shall not be of any validity (*x*).

(*q*) **Consume its own smoke.**—The onus of proof that the locomotive does, so far as practicable, consume its own smoke, lies on the defendant. *Pitt-Rivers v. Glassey*, 55 J. P. 663; 7 T. L. R. 438. Apparently a person using a light locomotive which is not "so constructed that no smoke or visible vapour is emitted therefrom except from any temporary or accidental cause" would be liable to the fine imposed by this section. See the Locomotives on Highways Act, 1896, sec. 1, *post*.

(*r*) **Mayor, aldermen, and commons.**—See note (*v*) on page 943.

(*s*) **Met. Bd. Wks.**—See note (*p*) on page 943.

(*t*) **Any locomotive.**—See note (*m*) on page 943.

(*u*) **Licence.**—Steam engines authorised by statute to be used on tramways are not locomotives which require to be licensed by the local authority. *Bell v. Stockton, &c. Tramway Co.*, 51 J. P. 804; 3 T. L. R. 511. This section does not apply to light locomotives. See the Locomotives on Highways Act, 1896, secs. 1 and 8, *post*.

(*x*) **Confirmation of provisional order.**—A provisional order declaring that a road has ceased to be a main road does not require confirmation by Parliament. See note to sec. 16, *ante*.

**35.** A byelaw made under this Act, and any alteration made therein and any repeal of a byelaw, shall not be of any validity until it has been submitted to and confirmed by the Local Government Board.

41 & 42 Vict.  
c. 77.

A byelaw made under this Act shall not, nor shall any alteration therein or addition thereto or repeal thereof, be confirmed until the expiration of one month after notice of the intention to apply for confirmation of the same has been given by the authority making the same in one or more local newspapers circulating in their county or district.

Confirmation  
of byelaws.

**36.** All offences, fines, and expenses under this Act, or any byelaw made in pursuance of this Act, may be prosecuted, enforced, and recovered before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts(y).

Recovery of  
penalties and  
expenses.

The expression "court of summary jurisdiction" means and includes any justice or justices of the peace, metropolitan police magistrate, stipendiary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts: Provided that the court, when hearing and determining an information or complaint under this Act, shall be constituted either of two or more justices of the peace in petty sessions, sitting at a place appointed for holding petty session, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.

**37.** If any party thinks himself aggrieved by any conviction or order made by a court of summary jurisdiction on determining any information or complaint under this Act, the party so aggrieved may appeal therefrom to the next practicable court of quarter sessions(z).

Appeal to  
quarter  
sessions.

**38.** In this Act—

"County" has the same meaning as it has in the Highway Acts, 1862 and 1864, except that every liberty not being assessable to the county rate of the county or counties within which it is locally situate shall, for the purposes of this Act other than those relating to the formation and alteration of highway districts, and the transfer of the powers of a highway board, be deemed to be a separate county:

Interpretation.  
25 & 26 Vict.  
c. 61.  
27 & 28 Vict.  
c. 101.

"County authority" means the justices of a county in general or quarter sessions assembled (a).

\* \* \* \* \*

"Highway authority" means as respects an urban sanitary district the urban sanitary authority, and as respects a highway district the highway board, and as respects a highway parish the surveyor or surveyors or other officers performing similar duties:

"Urban sanitary district" and "urban sanitary authority" mean respectively the districts and authorities declared to be urban sanitary districts and authorities by the Public Health Act, 1875, except that for the purposes of this Act no borough having a separate court of quarter sessions, and no part of any such borough, shall be deemed to be or to be included in any such district, and where part of a parish is included in such district for the purpose only of the repairs of the highways such part shall be deemed to be included in the district for the purposes of this Act:

38 & 39 Vict.  
c. 55.

"The Metropolis" means the parishes and places mentioned in the schedules A., B., and C. annexed to the Metropolis Management Act, 1855, and any parish to which such Act may be extended by order in council in manner in the said Act provided; also the City of London and the liberties of the said City:

18 & 19 Vict.  
c. 120.

"Quarter sessions" includes general sessions:

\* \* \* \* \*

(y) **Summary Jurisdiction Acts.**—See note (h) to sec. 23, *ante*, as to summary proceedings.

(z) **Appeal to quarter sessions.**—The remainder of this section is repealed by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 4. For the manner and time of appealing to quarter sessions, see note to sec. 227 of the Met. Man. Act, 855, *ante*, vol. i.

(a) **County authority.**—Now the London County Council so far as relates to main roads throughout the Metropolis. Loc. Govt. Act, 1888, secs. 3 (viii.), 11, and 41 (4), *ante*, vol. i.



- 41 & 42 Vict.  
c. 77. "Locomotive" means a locomotive propelled by steam or by other than animal power (b):  
"Person" includes a body of persons corporate or unincorporate.

## LOCOMOTIVES ON HIGHWAYS ACT, 1896.

59 & 60 Vict. c. 36. An Act to amend the Law with respect to the Use of Locomotives on Highways. [14th August, 1896]

Exemption of light locomotives from certain statutory provisions.

1.—(1) The enactments mentioned in the schedule to this Act, and any other enactment restricting the use of locomotives on highways and contained in any public general or local and personal Act in force at the passing of this Act, shall not apply to any vehicle propelled by mechanical power if it is under three tons in weight unladen, and is not used for the purpose of drawing more than one vehicle (such vehicle with its locomotive not to exceed in weight unladen four tons), and is so constructed that no smoke or visible vapour is emitted therefrom except from any temporary or accidental cause; and vehicles so exempted, whether locomotives or drawn by locomotives, are in this Act referred to as light locomotives.

Provided that—

(a) the council of any county or county borough shall have power to make byelaws preventing or restricting the use of such locomotives upon any bridge within their area, where such council are satisfied that such use would be attended with damage to the bridge or danger to the public:

(b) a light locomotive shall be deemed to be a carriage within the meaning of any Act of Parliament, whether public general or local, and of any rule, regulation, or byelaw, made under any Act of Parliament, and, if used as a carriage of any particular class, shall be deemed to be a carriage of that class, and the law relating to carriages of that class shall apply accordingly.

(2) In calculating for the purposes of this Act the weight of a vehicle unladen, the weight of any water, fuel, or accumulators, used for the purpose of propulsion, shall not be included.

Regulations as to lights.

2. During the period between one hour after sunset and one hour before sunrise, the person in charge of a light locomotive shall carry attached thereto a lamp so constructed and placed as to exhibit a light in accordance with the regulations to be made by the Local Government Board (c).

Locomotives to carry a bell.

3. Every light locomotive shall carry a bell or other instrument capable of giving audible and sufficient warning of the approach or position of the carriage.

Rate of speed.

4. No light locomotive shall travel along a public highway at a greater speed than fourteen miles an hour, or than any less speed that may be prescribed by regulations of the Local Government Board (d).

Use of

petroleum, &c.

5. The keeping and use of petroleum or of any other inflammable liquid or fuel for the purpose of light locomotives shall be subject to regulations made

(b) *Locomotive*.—A tricycle capable of being propelled by steam is a locomotive within the above definition. *Parkyn v. Priest*, 7 Q. B. D. 313; 50 L. J. M. C. 148.

(c) *Lamp*.—This lamp "shall be so constructed and placed as to exhibit, during the period between one hour after sunset and one hour before sunrise, a white light visible within a reasonable distance in the direction towards which the light locomotive is proceeding or is intended to proceed, and to exhibit a red light so visible in the reverse direction. The lamp shall be placed on the extreme right or off side of the light locomotive in such a position as to be free from all obstruction to the light." The Light Locomotives on Highways Order, 1896, art. ii. (9). This regulation does not apply to any bicycle, tricycle, or other machine to which sec. 85 of the Loc. Govt. Act, 1888, applies. *Ib*.

(d) *Speed*.—Art. iv. of the Light Locomotives on Highways Order, 1896, requires that a light locomotive shall not be driven at any greater speed than is reasonable and proper having regard to the traffic on the highway, or so as to endanger life or limb, or to the common danger of passengers. Under any circumstances the speed must not be greater than twelve miles an hour. If the weight unladen of the light locomotive is one ton and a half and does not exceed two tons the maximum speed allowed is eight miles an hour; or if more than two tons, then the maximum speed is five miles an hour. Whatever be the weight of the light locomotive, if used to draw any vehicle the maximum speed allowed is eight miles an hour. *Ib*.

by a Secretary of State (e), and regulations so made shall have effect notwithstanding anything in the Petroleum Acts, 1871 to 1881 (f).

6.—(1) The Local Government Board may make regulations (g), with respect to the use of light locomotives on highways, and their construction, and the conditions under which they may be used.

(2) Regulations under this section may, if the Local Government Board deem it necessary, be of a local nature and limited in their application to a particular area, and may, on the application of any local authority, prohibit or restrict the use of locomotives for purposes of traction in crowded streets, or in other places where such use may be attended with danger to the public.

All regulations under this section shall have full effect notwithstanding anything in any other Act, whether general or local, or any byelaws or regulations made thereunder.

Every regulation purporting to be made in pursuance of this section shall be forthwith laid before both Houses of Parliament.

7. A breach of any byelaw or regulation made under this Act, or of any provision of this Act, may, on summary conviction, be punished by a fine not exceeding ten pounds.

8.—(1) On and after the first day of January next after the passing of this Act there shall be granted, charged, and paid in Great Britain for every light locomotive, which is liable to duty either as a carriage or as a hackney carriage under section four of the Customs and Inland Revenue Act, 1888, an additional duty of excise at the following rate; namely—

|                                                                                                         | £ | s. | d. |
|---------------------------------------------------------------------------------------------------------|---|----|----|
| If the weight of the locomotive exceeds one ton unladen, but does not exceed two tons unladen . . . . . | 2 | 2  | 0  |
| If the weight of the locomotive exceeds two tons unladen . . . . .                                      | 3 | 3  | 0  |

(2) Every such duty shall be paid together with the duty on the licence for the locomotive as a carriage or a hackney carriage, and shall in England be dealt with in manner directed with respect to duties on local taxation licences within the meaning of the Local Government Act, 1888 (h); and in Scotland . . .

9. The requirements of sub-section (4) of section twenty-eight of the Highways and Locomotives Amendment Act, 1878 (i), may be from time to time varied by order of the Local Government Board.

10. [*Application to Scotland.*]

11. [*Application to Ireland.*]

12. This Act may be cited as the Locomotives on Highways Act, 1896, and shall come into operation on the expiration of three months from the passing thereof.

59 & 60 Vict.  
c. 36.

34 & 35 Vict.  
c. 105.

42 & 43 Vict.

c. 47.

44 & 45 Vict.  
c. 67.

Local Govern-  
ment Board  
regulations.

Penalties.

Excise duty  
on certain  
locomotives.

51 & 52 Vict.  
c. 8.

Construction of  
wheels of  
locomotives on  
roads.

Short title and  
commence-  
ment.

# SCHEDULE.

## ENACTMENTS WHICH ARE NOT TO APPLY TO LIGHT LOCOMOTIVES.

The Locomotives Act, 1861 (24 & 25 Vict. c. 70), except so much of section one as relates to tolls on locomotives, and sections seven and thirteen (k).

Section forty-one of the Thames Embankment Act, 1862 (25 & 26 Vict. c. 93) (l).

The Locomotives Act, 1865 (28 & 29 Vict. c. 83) (k).

\* \* \* \* \*

Part two of the Highways and Locomotives (Amendment) Act, 1878 (41 & 42 Vict. c. 77) (i).

\* \* \* \* \*

(e) Regulations of the Secretary of State, dated Nov. 3, 1896, have been issued.

(f) Petroleum Acts, 1871 to 1881.—*Post*, tit. "*Petroleum.*"

(g) Regulations of the Loc. Govt. Bd., dated Nov. 9, 1896, and entitled "The Light Locomotives on Highways Order, 1896," have been issued.

(h) Local Govt. Act., 1888.—See secs. 20 and 23, *ante*, vol. i.

(i) Highways and Loco. Amend. Act, 1878.—*Ante*.

(k) Locomotives Acts, 1861 and 1865.—*Ante*.

(l) Thames Embankment Act, 1862, sec. 41.—See note to sec. 11 of the Locomotives Act, 1865, *ante*.

## HOUSING OF THE WORKING CLASSES.

|                                                                                                                             |          |
|-----------------------------------------------------------------------------------------------------------------------------|----------|
| 53 & 54 Vict. c. 70 ("Housing of the Working Classes Act, 1890").....                                                       | page 948 |
| 57 & 58 Vict. c. 55 ("Housing of the Working Classes Act, 1894"), <i>note</i> (s).....                                      | 966      |
| 38 & 39 Vict. c. 55 ("Public Health Act, 1875") (secs 175—178,<br>213—215, 222, 223, 225, 234, 240, 257, 261, and 268)..... | 989      |
| 53 & 54 Vict. c. 16 ("Working Classes Dwellings Act, 1890").....                                                            | 993      |

## HOUSING OF THE WORKING CLASSES ACT, 1890.

**53 & 54 Vict. c. 70.** An Act to consolidate and amend the Acts relating to Artizans and Labourers Dwellings and the Housing of the Working Classes. [18th August, 1890]

Short title of Act.      **1.** This Act may be cited as the Housing of the Working Classes Act, 1890.

## PART I.

## UNHEALTHY AREAS.

- Definitions.      **2.** In this part of this Act—  
The expression "this part of this Act" includes any confirming Act (a), and  
The expression "the Act relating to nuisances" means—  
as respects the county of London (b) and City of London, the Nuisances Removal Acts as defined by the Sanitary Act, 1866, and any Act amending these Acts (c); and  
as respects any urban sanitary district in England, the Public Health Acts; and in the case of any of the above-mentioned areas, includes any local Act which contains any provisions with respect to nuisances in that area.
- 29 & 30 Vict. c. 90, s. 14.      **3.** This part of this Act shall not apply to rural sanitary districts.
- Application of part i. of Act.

*Scheme by Local Authority.*

- Local authority on being satisfied by official representation of the unhealthiness of district to make scheme for its improvement.      **4.** Where an official representation as hereinafter mentioned (d) is made to the local authority (e) that within a certain area in the district of such authority either—  
(a) any houses, courts, or alleys (f) are unfit for human habitation, or  
(b) the narrowness, closeness, and bad arrangement, or the bad condition of the streets and houses or groups of houses within such area, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defects, or one or more of such causes, are dangerous or injurious to the health of the inhabitants either of the buildings in the said area or of the neighbouring buildings;  
and that the evils connected with such houses, courts, or alleys, and the sanitary defects in such area cannot be effectually remedied otherwise than by an improvement scheme for the rearrangement and reconstruction of the streets

(a) **Confirming Act**, i.e., any Act confirming a provisional order made in pursuance of part i. of this Act. Sec. 8 (6), *post*.

(b) **County of London**, i.e., the administrative county of London exclusive of the City, sec. 93, *post*.

(c) **Nuisances Removal Acts**.—These Acts are repealed and replaced by the Pub. Hlth. (London) Act, 1891, *ante*, vol. i., and the present section must be read as if that Act were herein mentioned instead of such repealed Acts. *Ib.*, sec. 142.

(d) **Official representation**.—See sec. 5.

(e) **Local authority**, i.e., the Commissioners of Sewers in the City of London, throughout the Act, and the County Council in the remainder of London for the purpose of parts i. and iii. Sec. 92 and sched. i., *post*.

(f) **Any houses, &c.**—Where the official representation to the County Council relates to not more than ten houses this section must be read subject to the provisions of sec. 72, *post*. And where the County Council resolve that the case is not of general importance to the county, and should be dealt with under part ii., *post*, the section must be read subject to the provisions of sec. 73 (1) (b), *post*.



and houses within such area, or of some of such streets or houses, the local authority shall take such representation into their consideration, and if satisfied of the truth thereof, and of the sufficiency of their resources, shall pass a resolution to the effect that such area is an unhealthy area, and that an improvement scheme ought to be made in respect of such area, and after passing such resolution they shall forthwith proceed to make a scheme for the improvement of such area.

Provided always, that any number of such areas may be included in one improvement scheme.

5.—(1) An official representation for the purposes of this part of this Act shall mean a representation made to the local authority by the medical officer of health of that authority, and in London made either by such officer or by any medical officer of health in London.

(2) A medical officer of health shall make such representation (*g*) whenever he sees cause to make the same; and if two or more justices of the peace acting within the district for which he acts as medical officer of health, or twelve or more persons liable to be rated to the local rate (*h*) complain to him of the unhealthiness of any area within such district, it shall be the duty of the medical officer of health forthwith to inspect such area, and to make an official representation stating the facts of the case, and whether in his opinion the said area or any part thereof is an unhealthy area or is not an unhealthy area.

6.—(1) The improvement scheme of a local authority shall be accompanied by maps, particulars, and estimates, and

(a) may exclude any part of the area in respect of which an official representation is made, or include any neighbouring lands, if the local authority are of opinion that such exclusion is expedient or inclusion is necessary for making their scheme efficient for sanitary purposes; and

(b) may provide for widening any existing approaches to the unhealthy area or otherwise for opening out the same for the purposes of ventilation or health; and

(c) shall provide such dwelling accommodation, if any, for the working classes displaced by the scheme as is required to comply with this Act; and

(d) shall provide for proper sanitary arrangements.

(2) The scheme shall distinguish the lands proposed to be taken compulsorily.

(3) The scheme may also provide for the scheme or any part thereof being carried out and effected by the person entitled to the first estate of freehold in any property comprised in the scheme or with the concurrence of such person, under the superintendence and control of the local authority, and upon such terms and conditions to be embodied in the scheme as may be agreed upon between the local authority and such person.

#### *Confirmation of Scheme.*

7. Upon the completion of an improvement scheme the local authority shall—

(a) publish, during three consecutive weeks in the month of September, or October, or November, in some one and the same newspaper circulating within the district of the local authority, an advertisement (*i*) stating the fact of a scheme having been made, the limits of the area comprised therein, and naming a place within such area or in the vicinity thereof where a copy of the scheme may be seen at all reasonable hours; and

(b) during the month next following the month in which such advertisement is published serve a notice on every owner or reputed owner, lessee or reputed lessee, and occupier (*k*) of any lands proposed to be taken compulsorily, so far as such persons can reasonably be ascertained, stating that such lands are proposed to be taken compulsorily for the purpose of an improvement scheme, and in the case of any owner or reputed owner, lessee

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c. 70.

Official representation, by whom to be made.

Requisites of improvement scheme of local authority.

Publication of notices.

Service of notices.

(*g*) **Representation of medical officers.**—This must be in writing. Sec. 79 (2), *post*.

(*h*) **Local rate.**—See sec. 92 and sched. 1, *post*, for the meaning of this expression.

(*i*) **Advertisement.**—See sec. 27, *post*, as to the form of advertisement; and sec. 28 as to the power of the confirming authority to dispense with advertisements and notices.

(*k*) **Notice to owners, lessees, and occupiers.**—See sec. 27, *post*, as to the form of these notices. The term "owner" is not defined in this part of the Act.

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c. 70.

or reputed lessee, requiring an answer stating whether the person so served dissents or not in respect of taking such lands;

(c) Such notice shall be served—

- (i) by delivery of the same personally to the person required to be served, or if such person is absent abroad, or cannot be found, to his agent, or if no agent can be found, then by leaving the same on the premises; or,
- (ii) by leaving the same at the usual or last known place of abode of such person as aforesaid; or,
- (iii) by post (*l*) addressed to the usual or last known place of abode of such person.

(d) One notice addressed to the occupier or occupiers without naming him or them, and left at any house, shall be deemed to be a notice served on the occupier or on all the occupiers of any such house.

Making and  
confirmation of  
provisional  
order.

8.—(1) Upon compliance with the foregoing provisions with respect to the publication of an advertisement and the service of notices, the local authority shall present a petition, if it relates to any part of the county (*m*) or City of London, to a Secretary of State, and if it relates to any other place, to the Local Government Board, praying that an order may be made confirming such scheme.

(2) The petition shall be accompanied by a copy of the scheme, and shall state the names of the owners or reputed owners, lessees or reputed lessees, who have dissented in respect of the taking their lands, and shall be supported by such evidence as the Secretary of State or Local Government Board, according to the circumstances of the case (in this part of this Act referred to as the confirming authority), may from time to time require.

(3) If, on consideration of the petition and on proof of the publication of the proper advertisements and the service of the proper notices (*n*), the confirming authority think fit to proceed with the case, they shall direct a local inquiry (*o*) to be held in, or in the vicinity of, the area comprised in the scheme, for the purpose of ascertaining the correctness of the official representation made as to area and the sufficiency of the scheme provided for its improvement, and any local objections to be made to such scheme.

(4) After receiving the report made upon such inquiry, the confirming authority may make a provisional order declaring the limits of the area comprised in the scheme and authorising such scheme to be carried into execution.

(5) Such provisional order may be made either absolutely or with such conditions and modifications of the scheme as the confirming authority may think fit, so that no addition be made to the lands proposed in the scheme to be taken compulsorily, and it shall be the duty of the local authority to serve a copy of any provisional order so made in the manner and upon the persons in which and upon whom notices in respect of lands proposed to be taken compulsorily are required by this part of this Act to be served (*p*), except tenants for a month or a less period than a month.

(6) A provisional order made in pursuance of this section shall not be of any validity unless and until it has been confirmed by Act of Parliament; and it shall be lawful for the confirming authority, as soon as conveniently may be, to obtain such confirmation, and any Act confirming any provisional order made in pursuance of this part of this Act, with such modifications as may seem fit to Parliament, shall be a public general Act of Parliament, and is in this part of this Act referred to as the confirming Act.

(7) The confirming authority may make such order as they think fit in favour of any person whose lands were proposed by the scheme to be taken compulsorily for the allowance of the reasonable costs, charges, and expenses properly incurred by him in opposing such scheme.

(*l*) **By post.**—Service by post “shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.” Interpretation Act, 1889 (52 & 53 Vict. c. 63), sec. 26.

(*m*) **County of London**, i.e., the administrative county of London exclusive of the City. Sec. 93, *post*.

(*n*) **Proper advertisements and notices.**—See sec. 7, *ante*. As to the power of the confirming authority to dispense with the advertisement and notices, see sec. 28, *post*.

(*o*) **Local inquiry.**—See secs. 17 and 85, *post*.

(*p*) **Persons on whom to be served.**—See sec. 7 (*b*), *ante*.

(8) All costs, charges, and expenses incurred by the confirming authority in relation to any provisional order under this part of this Act shall, to such amount as the confirming authority think proper to direct, and all costs, charges, and expenses of any person to such amount as may be allowed to him by the confirming authority in pursuance of the aforesaid power, shall be deemed to be an expense incurred by the local authority under this part of this Act, and shall be paid to the confirming authority and to such person respectively, in such manner and at such times and either in one sum or by instalments as the confirming authority may order, with power for the confirming authority to direct interest to be paid at such rate not exceeding five pounds in the hundred by the year as the confirming authority may determine, upon any sum for the time being due in respect of such costs, charges, and expenses as aforesaid.

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c. 70.

(9) Any order made by the confirming authority in pursuance of this section may be made a rule of a superior court, and be enforced accordingly.

9.—(1) Where any bill for confirming a provisional order authorising an improvement scheme is referred to a committee of either House of Parliament upon the petition of any person opposing such bill, the committee shall take into consideration the circumstances under which such opposition is made to the bill, and whether such opposition was or was not justified by such circumstances, and shall award costs accordingly to be paid by the promoters or the opponents of the bill as the committee may think just.

Costs to be  
awarded in  
certain cases.

(2) Any costs under this section may be taxed and recovered in the manner in which costs may be taxed and recovered under the Act of the session of the twenty-eighth and twenty-ninth years of the reign of Her present Majesty, chapter twenty-seven.

(3) The decision of the majority of the members of the committee for the time being present and voting on any question under this section shall be deemed to be the decision of the committee.

10. Where an official representation (*q*) is made to the local authority with a view to their passing a resolution in favour of an improvement scheme, and they fail to pass any resolution in relation to such representation, or pass a resolution to the effect that they will not proceed with such scheme, the local authority shall, as soon as possible, send a copy of the official representation, accompanied by their reasons for not acting upon it, to the confirming authority, and, upon the receipt thereof, the confirming authority may direct a local inquiry to be held, and a report to be made to them with respect to the correctness of the official representation made to the local authority, and any matters connected therewith on which the confirming authority may desire to be informed.

Inquiry on  
refusal of local  
authority to  
make an  
improvement  
scheme.

#### *Provision of Dwelling Accommodation for Working Classes displaced by Scheme.*

11.—(1) Subject as hereinafter mentioned, every scheme comprising an area in the county or City of London shall provide for the accommodation of at the least as many persons of the working class as may be displaced in the area comprised therein, in suitable dwellings, which, unless there are any special reasons to the contrary, shall be situate within the limits of the same area, or in the vicinity thereof.

Requisites of  
improvement  
scheme as to  
accommodation  
of working  
classes.

Provided that—

(a) Where it is proved to the satisfaction of the confirming authority (*r*) on an application to authorise a scheme that equally convenient accommodation can be provided for any persons of the working classes displaced by the scheme at some place other than within the area or the immediate vicinity of the area comprised in the scheme, and that the required accommodation has been or is about to be forthwith provided, either by the local authority or by any other person or body of persons, the confirming authority may authorise such scheme, and the requirements of this section with respect to providing accommodation for persons of the working class shall be deemed to have been complied with to the extent to which accommodation is so provided; and

(*q*) Official representation is defined by sec. 5, *ante*.

(*r*) Confirming authority, i.e., a Secretary of State in the county and City of London. Sec. 8 (1) and (2), *ante*.



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c. 70.

(b) Where the local authority apply for a dispensation under this section, and the officer conducting the local inquiry directed by the confirming authority reports that it is expedient, having regard to the special circumstances of the locality and to the number of artisans and others belonging to the working class dwelling within the area, and being employed within a mile thereof, that a modification should be made, the confirming authority, without prejudice to any other powers conferred on it by this part of this Act, may in the provisional order authorising the scheme, dispense altogether with the obligation of the local authority to provide for the accommodation of the persons of the working class who may be displaced by the scheme to such extent as the confirming authority may think expedient, having regard to such special circumstances as aforesaid, but not exceeding one-half of the persons so displaced.

(2) Where a scheme comprises an area situate elsewhere than in the county or City of London, it shall, if the confirming authority so require (but it shall not otherwise be obligatory on the local authority so to frame their scheme), provide for the accommodation of such number of those persons of the working classes displaced in the area with respect to which the scheme is proposed in suitable dwellings to be erected in such place or places either within or without the limits of the same area as the said authority on a report made by the officer conducting the local inquiry may require.

*Execution of Scheme by Local Authority.*

Duty of local  
authority to  
carry scheme,  
when con-  
firmed, into  
execution.

12.—(1) When the confirming Act authorising any improvement scheme of a local authority under this part of this Act has been passed by Parliament, it shall be the duty of that authority to take steps for purchasing the lands<sup>(s)</sup> required for the scheme, and otherwise for carrying the scheme into execution as soon as practicable.

(2) They may sell or let all or any part of the area comprised in the scheme to any purchasers or lessees for the purpose and under the condition that such purchasers or lessees will, as respects the land so purchased by or leased to them, carry the scheme into execution; and in particular they may insert in any grant or lease of any part of the area provisions binding the grantee or lessee to build thereon as in the grant or lease prescribed, and to maintain and repair the buildings, and prohibiting the division of buildings, and any addition to or alteration of the character of buildings without the consent of the local authority, and for the re-vesting of the land in the local authority, or their re-entry thereon, on breach of any provision in the grant or lease.

(3) The local authority may also engage with any body of trustees, society, or person, to carry the whole or any part of such scheme into effect upon such terms as the local authority may think expedient, but the local authority shall not themselves, without the express approval of the confirming authority, undertake the rebuilding of the houses or the execution of any part of the scheme, except that they may take down any or all of the buildings upon the area, and clear the whole or any part thereof, and may lay out, form, pave, sewer, and complete all such streets upon the land purchased by them as they may think fit, and all streets so laid out and completed shall thenceforth be public streets, repairable by the same authority as other streets in the district.

(4) Provided that in any grant or lease of any part of the area which may be appropriated by the scheme for the erection of dwellings for the working classes the local authority shall impose suitable conditions and restrictions as to the elevation, size, and design of the houses, and the extent of the accommodation to be afforded thereby, and shall make due provision for the maintenance of proper sanitary arrangements.

(5) If the local authority erect any dwellings out of funds to be provided under this part of this Act, they shall, unless the confirming authority otherwise determine, sell and dispose of all such dwellings within ten years from the time of the completion thereof.

(6) The local authority may, where they think it expedient so to do, without themselves acquiring the land, or after or subject to their acquiring any part thereof, contract with the person entitled to the first estate of freehold in any

(s) Steps for purchasing lands.—See sec. 20, *et seq.*, *post*.

land comprised in an improvement scheme for the carrying of the scheme into effect by him in respect of such land.

13. If within five years after the removal of any buildings on the land set aside by any scheme authorised by a confirming Act as sites for working men's dwellings, the local authority have failed to sell or let such land for the purposes prescribed by the scheme, or have failed to make arrangements for the erection of the said dwellings, the confirming authority may order the said land to be sold by public auction or public tender, with full power to fix a reserve price, subject to the conditions imposed by the scheme, and to any modifications thereof which may be made in pursuance of this part of this Act, and to a special condition on the part of the purchaser to erect upon the said land dwellings for the working classes, in accordance with plans to be approved by the local authority, and subject to such other reservations and regulations as the confirming authority may deem necessary.

14. The local authority shall, not less than thirteen weeks before taking any fifteen houses or more, make known their intention to take the same by placards, handbills, or other general notices placed in public view upon or within a reasonable distance of such houses, and the local authority shall not take any such houses until they have obtained a certificate of a justice of the peace that it has been proved to his satisfaction that the local authority have made known, in manner required by this section, their intention to take such houses.

15.—(1) The confirming authority, on application from the local authority, and on its being proved to their satisfaction that an improvement can be made in the details of any scheme authorised by a confirming Act, may permit the local authority to modify any part of their improvement scheme which it may appear inexpedient to carry into execution, but any part of the scheme respecting the provision of dwelling accommodation for persons of the working class, when so modified, shall be such as might have been inserted in the original scheme.

(2) A statement of any modifications permitted to be made in any part of an improvement scheme in pursuance of this section shall be laid by the confirming authority before both Houses of Parliament as soon as practicable after the permission is given, if Parliament be then sitting, and if not, within one month after the next meeting of Parliament.

Provided always, that if such modification requires a larger public expenditure than that sanctioned by the former scheme, or the taking of any property otherwise than by agreement, or affects injuriously other property in a manner different to that proposed in the former scheme without the consent of the owner and occupier of any such property, the modification must be made by a provisional order to be confirmed by Act of Parliament in the manner provided by this part of this Act on the completion of an improvement scheme (†).

#### *Inquiries with respect to Unhealthy Areas.*

16.—(1) Where in any district twelve or more ratepayers have complained to a medical officer of health of the unhealthiness of any area within that district, and the medical officer of health has failed to inspect such area, or to make an official representation with respect thereto, or has made an official representation to the effect that in his opinion the area is not an unhealthy area, such ratepayers may appeal to the confirming authority (u), and upon their giving security to the satisfaction of that authority for costs, the confirming authority shall appoint a legally qualified medical practitioner to inspect such area, and to make representation to the confirming authority, stating the facts of the case, and whether, in his opinion, the area or any part thereof is or is not an unhealthy area. The representation so made shall be transmitted by the confirming authority to the local authority, and if it states that the area is an unhealthy area the local authority shall proceed therein in the same manner as if it were an official representation made to that authority (x).

(2) The confirming authority shall make such order as to the costs of the inquiry as they think just, with power to require the whole or any part of such costs to be paid by the appellants where the medical practitioner appointed

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c. 70.

Completion of  
scheme on  
failure by local  
authority.

Notice to  
occupiers by  
placards.

Power of  
confirming  
authority to  
modify  
authorised  
scheme.

Inquiry on  
default of  
medical officer  
in certain  
cases.

(†) In manner provided.—See sec. 8, *ante*.

(u) Confirming authority, i.e., a Secretary of State, in the county and City of London. Sec. 8 (1) and (2), *ante*.

(x) Proceed in same manner.—See sec. 4, *ante*.

53 & 54 Vict. c. 70. is of opinion that the area is not an unhealthy area, and to declare the whole or any part of such costs to be payable by the local authority where he is of opinion that the area or any part thereof is an unhealthy area.

(3) Any order made by the confirming authority in pursuance of this section may be made a rule of a superior court, and be enforced accordingly.

Proceedings on local inquiry.

17. Where a local inquiry is directed (y), an officer shall be sent by the confirming authority to the area to which such inquiry relates for the purpose of making an inquiry into the correctness of the official representation made to the local authority as to such area being an unhealthy area, and into the sufficiency of the scheme provided for its improvement, and into any local objections to be made to such scheme, and to any other matter into which he is directed by this Act or the confirming authority to inquire for the purposes of this Act.

Notice of inquiry to be publicly given.

18. Before commencing such inquiry the officer appointed to conduct the same shall make public by advertisement or otherwise in such manner as he thinks best calculated to give information to the persons residing in the area his intention to make such inquiry, and a statement of a time and place at which he will be prepared to hear all persons desirous of being heard before him upon the subject of the inquiry.

Power to administer oath.

19. The officer conducting such inquiry shall have power to administer an oath; he shall report the result of the inquiry to the confirming authority, who shall deal with such report in such manner as they think expedient.

#### *Acquisition of Land.*

Acquisition of land.

20. The Clauses of the Lands Clauses Acts, with respect to the purchase and taking of lands otherwise than by agreement shall not, except to the extent set forth in the Second Schedule to this Act, apply to any lands taken in pursuance of this part of the Act, but save as aforesaid the said Lands Clauses Acts (z), as amended by the provisions contained in the said schedule, shall regulate and apply to the purchase and taking of lands, and shall for that purpose be deemed to form part of this part of this Act in the same manner as if they were enacted in the body thereof; subject to the provisions of this part of this Act and to the provisions following; that is to say,

(i) This part of this Act shall authorise the taking by agreement of any lands which the local authority may require for the purpose of carrying into effect the scheme authorised by any confirming Act, but it shall authorise the taking by the exercise of any compulsory powers of such lands only as are proposed by the scheme in the confirming Act to be taken compulsorily:

(ii) In the construction of the Lands Clauses Acts, and the provisions in the Second Schedule to this Act, this part of this Act shall be deemed to be the special Act, and the local authority shall be deemed to be the promoters of the undertaking; and the period after which the powers for the compulsory purchase or taking of lands shall not be exercised shall be three years after the passing of the confirming Act.

Special provision as to compensation.

21.—(1) Whenever the compensation payable in respect of any lands or of any interests in any lands proposed to be taken compulsorily in pursuance of this part of this Act requires to be assessed—

(a) the estimate of the value of such lands or interests shall be based upon the fair market value, as estimated at the time of the valuation being made of such lands, and of the several interests in such lands, due regard being had to the nature and then condition of the property, and the probable duration of the buildings in their existing state, and to the state of repair thereof, without any additional allowance in respect of the compulsory purchase of

(y) **Local inquiry.**—See secs. 8 and 10, *ante*, and sec. 85, *post*.

(z) **Lands Clauses Acts.**—As to these Acts, see Cripps on the "Law of Compensation," and other works on the same subject, which is too lengthy to be dealt with here. The local authority acquiring lands for an improvement scheme under this Act, is liable in accordance with sec. 133 of the Lands Clauses Consolidation Act, 1845, to make good deficiencies arising in the poor rate in consequence. The deficiencies must be calculated according to the value at which the lands were rated at the time they were taken, the local authority not being entitled to a deduction equivalent to allowances which may have been made to compounding owners. *St. Leonards, Shoreditch v. London County Council* (1895), 2 Q. B. 104; 64 L. J. Q. B. 615.



an area or of any part of an area in respect of which an official representation has been made, or of any lands included in a scheme which, in the opinion of the arbitrator, have been so included as falling under the description of property which may be constituted an unhealthy area under this part of this Act; and

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(b) in such estimate any addition to or improvement of the property made after the date of the publication in pursuance of this part of this Act of an advertisement stating the fact of the improvement scheme having been made shall not (unless such addition or improvement was necessary for the maintenance of the property in a proper state of repair) be included, nor in the case of any interest acquired after the said date shall any separate estimate of the value thereof be made so as to increase the amount of compensation to be paid for the lands; and

(2) On the occasion of assessing the compensation payable under any improvement scheme in respect of any house or premises situate within an unhealthy area evidence shall be receivable by the arbitrator to prove—

(1st) that the rental of the house or premises was enhanced by reason of the same being used for illegal purposes or being so overcrowded as to be dangerous or injurious to the health of the inmates; or

(2ndly) that the house or premises are in such a condition as to be a nuisance within the meaning of the Acts relating to nuisances, or are in a state of defective sanitation, or are not in reasonably good repair; or

(3rdly) that the house or premises are unfit, and not reasonably capable of being made fit, for human habitation;

and, if the arbitrator is satisfied by such evidence, then the compensation—

(a) shall in the first case so far as it is based on rental be based on the rental which would have been obtainable if the house or premises were occupied for legal purposes and only by the number of persons whom the house or premises were under all the circumstances of the case fitted to accommodate without such overcrowding as is dangerous or injurious to the health of the inmates; and

(b) shall in the second case be the amount estimated as the value of the house or premises if the nuisance had been abated, or if they had been put into a sanitary condition, or into reasonably good repair, after deducting the estimated expense of abating the nuisance, or putting them into such condition or repair, as the case may be; and

(c) shall in the third case be the value of the land, and of the materials of the buildings thereon.

**22.** Upon the purchase by the local authority of any lands required for the purpose of carrying into effect any scheme, all rights of way, rights of laying down or of continuing any pipes, sewers, or drains on, through, or under such lands, or part thereof, and all other rights or easements in or relating to such lands, or any part thereof, shall be extinguished (a), and all the soil of such ways, and the property in the pipes, sewers, or drains, shall vest in the local authority, subject to this provision, that compensation shall be paid by the local authority to any persons or bodies of persons proved to have sustained loss by this section, and such compensation shall be determined in the manner in which compensation for lands is determinable under this part of this Act, or as near thereto as circumstances admit.

Extinction of  
rights of way  
and other ease-  
ments.

**23.** A local authority may, for the purpose of providing accommodation for persons of the working classes displaced by any improvement scheme,

Application of  
lands for  
accommodation  
of working  
classes.

(a) **Rights or easements.**—The same provision of the repealed Artizans and Labourers' Dwellings Improvement Act, 1875 (38 & 39 Vict. c. 36), sec. 20, was held to apply to ancient lights. *Badham v. Marris*, 52 L. J. Ch. 237; 45 L. T. (N. S.) 579; *Sicaviston v. Finn*, and *Met. Bd. Wks.*, 52 L. J. Ch. 235; 48 L. T. (N. S.) 634. It was also held that it included cases where a right or easement is in process of being acquired by enjoyment under the Prescription Act at the date of the purchase of the land, and had the effect of extinguishing such inchoate rights as well as rights or easements already acquired over such land; and that therefore the owner of a house to which there had been access of light over land for ten years before and ten years after its purchase by a local authority under the Act, did not gain an easement of light under the Prescription Act, by reason of such twenty years' enjoyment. *Barlow v. Ross*, 24 Q. B. D. 381; 59 L. J. Q. B. 183.

53 & 54 Vict. appropriate any lands for the time being belonging to them which are suitable  
c. 70. for the purpose, or may purchase by agreement any such further lands as  
may be convenient.

*Expenses.*

Formation of  
improvement  
fund for pur-  
poses of Act.

24.—(1) The receipts of a local authority under this part of this Act shall form a fund (in this Act referred to as “the Dwelling-house Improvement Fund”), and their expenditure shall be defrayed out of such fund.

(2) The moneys required in the first instance to establish such fund, and any deficiency for the purposes of this part of this Act from time to time appearing in such fund by reason of the excess of expenditure over receipts, shall be supplied out of the local rates or out of moneys borrowed in pursuance of this Act.

(3) In settling any accounts of the local authority in respect of any transactions under this part of this Act, care shall be taken that as far as may be practicable all expenditure shall ultimately be defrayed out of the property dealt with under this part of this Act; and any balances of profit made by the local authority under this part of this Act shall be applicable to any purposes to which the local rate is for the time being applicable.

(4) Any limit imposed on or in respect of local rates by any other Act of Parliament shall not apply to any rate required to be levied for the purpose of defraying any expenses under this part of this Act.

(5) The local authority may carry to the account of the Dwelling-house Improvement Fund any such money or produce of any property, as is legally applicable to purposes similar to the purposes of this part of this Act; and in case of doubt as to whether, in any particular case, the purposes are so similar the confirming authority (b) may decide such doubt, and such decision shall be conclusive.

Power of  
borrowing  
money for the  
purposes of  
part i. of Act.

25.—(1) A local authority may, in manner in this section mentioned, borrow such money as is required for the purposes of this part of this Act on the security of the local rate.

(2) For the purpose of such borrowing, the London County Council may, with the assent of the Treasury, create consolidated stock under the Metropolitan Board of Works Loans Acts, 1869 to 1871 (c), but all moneys required for the payment of the dividends on and the redemption of the consolidated stock created for the purposes of this part of this Act shall be charged to the special county account to which the expenditure for the purposes of this part of this Act is chargeable.

(3) for the purpose of such borrowing, the Commissioners of sewers for the City of London may take up at interest such money on the credit of the local rates, or any of them, as they may require for the purposes of this part of this Act, and may mortgage any such rate or rates to the persons by or on behalf of whom such money is advanced for securing the repayment to them of the sums borrowed, with interest thereon, and for the purposes of any mortgages so made by the Commissioners of Sewers, the clauses of Commissioners Clauses Act, 1847 (d), with respect to the mortgages to be executed by the commissioners shall be incorporated with this part of this Act; and in the construction of that Act “the special Act” shall mean this part of this Act; “the commissioners” shall mean the Commissioners of Sewers; “the clerk of the commissioners” shall include any officer appointed for the purpose by the Commissioners of Sewers by this part of this Act; and the mortgagees or assignees of any mortgage made as last aforesaid may enforce payment of the arrears of principal and interest due to them by the appointment of a receiver.

(4) For the purpose of such borrowing, the urban sanitary authority shall have the same power of borrowing as they have under the Public Health Acts, for the purpose of defraying any expenses incurred by them in the execution of those Acts.

(5) The Public Works Loan Commissioners may, on the recommendation of the confirming authority, lend to any local authority any money required by

(b) **Confirming authority**, i.e., a Secretary of State in the county and City of London. Sec. 8 (1) (2), *ante*.

(c) **Met. Bd. Works (Loans) Acts**.—See these Acts, *post*, tit. “Loans.”

(d) **Commissioners Clauses Act, 1847**, i.e., secs. 75—88.

10 & 11 Vict.  
c. 16.

them for purposes of this part of this Act, on the security of the local rate. Such loan shall be repaid within such period, not exceeding fifty years, as may be recommended by the confirming authority.

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c. 70.

#### General Provisions.

26. In case of the illness or unavoidable absence of a medical officer of health, the authority, board, or vestry who appointed him may (subject to the approval of the confirming authority) appoint a duly qualified medical practitioner, for the period of six months, or any less period to be named in the appointment (*e*).

Provision in case of absence of medical officer of health.

27. The confirming authority may by order prescribe the forms of advertisements and notices under this part of this Act (*f*); it shall not be obligatory on any persons to adopt such forms, but the same, when adopted, shall be deemed sufficient for all the purposes of this part of this Act.

Power of confirming authority as to advertisements and notices.

28. The confirming authority may, on the consideration of any petition of a local authority for an order confirming a scheme, dispense with the publication of any advertisement, or the service of any notice, proof of which publication or service is not given to them as required by this part of this Act, where reasonable cause is shown to their satisfaction why such publication or service should be dispensed with, and such dispensation may be made by the confirming authority, either unconditionally or upon such condition as to the publication of other advertisements and the service of other notices or otherwise as the confirming authority may think fit, due care being taken by the confirming authority to prevent the interest of any person being prejudiced by the fact of the publication of any advertisement or the service of any notice being dispensed with in pursuance of this section.

Power of confirming authority to dispense with notices in certain cases.

## PART II.

### UNHEALTHY DWELLING-HOUSES.

#### Preliminary.

29. In this part of this Act, unless the context otherwise requires—

The expression “street” (*g*) includes any court, alley, street, square, or row of houses:

Definitions:  
“Street.”

The expression “dwelling-house” means any inhabited building, and includes any yard, garden, outhouses, and appurtenances belonging thereto or usually enjoyed therewith, and includes the site of the dwelling-house as so defined.

“Dwelling-house.”

The expression “owner” in addition to the definition given by the Lands Clauses Acts (*h*), includes all lessees or mortgagees of any premises required

“Owner.”

(*e*) **Absence of medical officer.**—See the Pub. Hlth. (London) Act, 1891, sec. 109, *ante*, vol. i., as to temporary arrangement by a sanitary authority for the performance of the duties of a medical officer of health. See also sec. 79 (1) of the present Act, *post*.

(*f*) **Forms.**—An order of Secretary of State dated Nov. 5th, 1890 (*Lon. Gaz.* Nov. 11th, 1890, p. 5931), prescribes the forms of advertisement, notice to owners and lessees, and notice to occupiers, to be used in the county and City of London. See sec. 7, *ante*.

(*g*) **Street.**—See the definition of “street” in the Met. Man. Act, 1855, sec. 250, *ante*, and cases cited in note thereto.

(*h*) **“Owner”** is defined by sec. 3 of the Lands Clauses Consolidation Act, 1845, *post*, “to be understood to mean any person or corporation who, under the provisions of this or the special Act, would be entitled to sell and convey lands to the promoters of the undertaking.” As to what persons are entitled to sell under that Act, see *ib.*, sec. 7.

The assignee of a lease with three months unexpired, but who is also the assignee of another lease of the same premises for twenty-one years, commencing on the expiration of the first lease, is an “owner” within the meaning of the definition in the present sub-section, entitled to a charging order under sec. 36, *post*. *Reg. v. St. Marylebone Vestry*, 20 Q. B. D. 415; 57 L. J. M. C. 9. Where the person receiving the rents and profits is a leaseholder with less than twenty-one years to run, he is not the person to be served, notwithstanding that sec. 32 and schedules 3 and 4, *post*, refer to the Pub. Hlth. Act, 1875, and the Nuisances Removal Act, 1854, for the purposes of procedure, and those Acts regard the receiver of the rents and profits as the owner. *Osborne v. Skinners’ Coy.*, 60 L. J. M. C. 156; 39 W. R. 715.



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c. 70.

"Closing  
order."

to be dealt with under this part of this Act, except persons holding or entitled to the rents and profits of such premises for a term of years, of which twenty-one years do not remain unexpired:

The expression "closing order" means an order prohibiting the use of premises for human habitation made under the enactments set out in the third schedule in this Act.

#### *Buildings unfit for Human Habitation.*

Representation  
by medical  
officer of  
health.

30. It shall be the duty of the medical officer of health of every district to represent to the local authority (*i*) of that district any dwelling-house which appears to him to be in a state so dangerous or injurious to health as to be unfit for human habitation.

Representation  
on house-  
holders'  
complaint.

31.—(1) If in any district any four or more householders living in or near to any street complain in writing to the medical officer of health of that district that any dwelling-house in or near that street is in a condition so dangerous or injurious to health as to be unfit for human habitation, he shall forthwith inspect the same, and transmit to the local authority the said complaint, together with his opinion thereon, and if he is of opinion that the dwelling-house is in the condition aforesaid, shall represent the same to the local authority, but the absence of any such complaint shall not excuse him from inspecting any dwelling-house and making a representation thereon to the local authority.

(2) If within three months after receiving the said complaint and opinion or representation of the medical officer, the local authority, not being in the administrative county of London (*k*), or not being a rural sanitary authority in any other county, declines or neglects to take any proceedings to put this part of this Act in force, the householders who signed such complaint may petition the Local Government Board for an inquiry, and the said Board after causing an inquiry to be held may order the local authority to proceed under this part of this Act, and such order shall be binding on the local authority.

#### *Closing Order and Demolition.*

Duty of local  
authority as to  
closing of  
dwelling-house  
unfit for  
human  
habitation.

32.—(1) It shall be the duty of every local authority to cause to be made from time to time inspection of their district, with a view to ascertain whether any dwelling-house therein is in a state so dangerous or injurious to health as to be unfit for human habitation, and, if on the representation of the medical officer, or of any officer of such authority, or information given, any dwelling-house appears to them to be in such state, to forthwith take proceedings (*l*) against the owner (*m*) or occupier for closing the dwelling-house under the enactments set out in the third schedule to this Act.

(2) Any such proceedings may be taken for the express purpose of causing the dwelling-house to be closed whether the same be occupied or not, and upon such proceedings the court of summary jurisdiction may impose a penalty not exceeding twenty pounds, and make a closing order, and the forms for the purposes of this section may be those in the fourth schedule to this Act, or to the like effect, and the enactments respecting an appeal from a closing order shall apply to the imposition of such penalty as well as to a closing order (*n*).

(*i*) **Local authority**, i.e., for the purposes of part ii., the Commissioners of Sewers in the City, the local board in Woolwich, and the vestries mentioned in sched. A. and the district boards in sched. B. of the Met. Man. Act, 1855, *ante*, vol. i., in the remainder of London. Sec. 92 and sched. 1, *post*.

(*k*) **Not being in London**.—See secs. 45 and 46, *post*.

(*l*) **Forthwith take proceedings**.—This section and sec. 33 are qualified by the provisions of sec. 73 (1) (*a*), *post*, where the local authority resolve that the case is of such general importance that it should be dealt with by a scheme under part i., *ante*. Previous to taking proceedings the local authority must serve a notice on the owner or occupier. Sched. 3, *post*.

(*m*) **Owner**.—The "owner" to be served with notice under this section is the person defined by sec. 29, *ante*. *Osborne v. Skinners' Coy.*, *supra*. The point of time to be looked at in order to determine the ownership is the date of service of notice, and not of making the closing order. *Reg. v. St. Marylebone Vestry*, *supra*.

(*n*) **Appeal from closing order**.—The Nuisances Removal Act, 1855 (18 & 19 Vict. c. 121), was in force in the Metropolis at the time of the passing of the present Act, and by secs. 15 and 40 gave a right of appeal to quarter sessions against a closing order, or

(3) Where a closing order has been made as respects any dwelling-house, the local authority shall serve notice of the order on every occupying tenant of the dwelling-house, and within such period as is specified in the notice, not being less than seven days after the service of the notice, the order shall be obeyed by him, and he and his family shall cease to inhabit the dwelling-house, and in default he shall be liable to a penalty not exceeding twenty shillings a day during his disobedience to the order. Provided that the local authority may make to every such tenant such reasonable allowance on account of his expenses in removing, as may have been authorised by the court making the closing order (o) which authority the court is hereby authorised to give, and the amount of the said allowance shall be a civil debt due from the owner of the dwelling-house to the local authority, and shall be recoverable summarily.

53 & 54 Vict.  
c. 70.

**33.**—(1) Where a closing order has been made in respect of any dwelling-house, and not been determined by a subsequent order (p), then the local authority, if of opinion that the dwelling-house has not been rendered fit for human habitation, and that the necessary steps are not being taken with all due diligence to render it so fit, and that the continuance of any building being or being part of the dwelling-house is dangerous or injurious to the health of the public or of the inhabitants of the neighbouring dwelling-houses, shall pass a resolution that it is expedient to order the demolition of the building (q).

Order for  
demolition of  
house unfit for  
habitation.

(2) The local authority shall cause notice of such resolution to be served on the owner (r) of the dwelling-house, and such notice shall specify the time and place appointed by the local authority for the further consideration of the resolution, not being less than one month after the service of the notice, and any owner of the dwelling-house shall be at liberty to attend and state his objections to the demolition.

(3) If upon the consideration of the resolution and the objections the local authority decide that it is expedient so to do, then, unless an owner undertakes to execute forthwith the works necessary to render the dwelling-house fit for human habitation, the local authority shall order the demolition of the building.

(4) If an owner undertakes as aforesaid to execute the said works, the local authority may order the execution of the works, within such reasonable time as is specified in the order, and if the works are not completed within that time or any extended time allowed by the local authority or a court of summary jurisdiction (s) the local authority shall order the demolition of the building.

**34.**—(1) Where an order for the demolition of a building has been made, the owner thereof shall within three months after (t) service of the order proceed to take down and remove the building, and if the owner fails therein the local authority shall proceed to take down and remove the building and shall sell the materials, and after deducting the expenses incident to such taking down and removal, pay over the balance of money (if any) to the owner.

Execution of  
an order for  
demolition and  
provision as to  
site.

(2) Where a building has been so taken down and removed, no house or other building or erection which will be dangerous or injurious to health shall be

“order of prohibition” as it was there termed. That Act is repealed and replaced by the Pub. Hlth. (Lon.) Act, 1891, *ante*, vol. i., which, by sec. 142, enacts that where, in any enactment, &c., in force, any Act or provisions of an Act are referred to which relate to London, and are repealed by that Act, such enactment, &c., shall be read as if that Act or the corresponding provisions of that Act were therein referred to; and by secs. 5, 6, and 125 provides for closing orders under that Act, and gives a right of appeal therefrom. For the time and manner of appealing to quarter sessions, see note (s) to sec. 227 of the Met. Man. Act, 1855, *ante*, vol. i.

(o) **Allowance to tenant.**—See sec. 78, *post*, as to compensation to tenants who are required to give up possession without a closing order.

(p) **Determined by subsequent order.**—See the Nuisances Removal Act, 1855, sec. 13, set out in sched. 3, *post*; and the Pub. Hlth. (London) Act, 1891, sec. 5 (8) *ante*, vol. i.

(q) **Shall pass a resolution.**—See note (l) to sec. 32, *supra*.

(r) **Notice on owner.**—See secs. 29 and 32 (1), *supra*, and cases cited thereunder.

(s) **Extended time.**—A court of summary jurisdiction is empowered by sec. 47 (3), *post*, to enlarge the time allowed under any order.

(t) **Within . . . months, i.e.,** calendar months (Interpretation Act, 1889 (52 & 53 Vict. c. 63), sec. 3) exclusive of the day on which notice of the order is served, but inclusive of the day on which proceedings are taken or notice of appeal is given. *Robinson v. Waddington*, 13 Q. B. 753; 18 L. J. Q. B. 250; *Radclyffe v. Bartholomew* (1892), 1 Q. B. 161; 61 L. J. M. C. 63.

53 & 54 Vict.  
c. 70.

erected on all or any part of the site of such building; and if any house, building, or erection is erected contrary to the provisions of this section, the local authority may at any time order the owner thereof to abate the same, and in the event of non-compliance with the order, may at the expense of the owner abate or alter the same.

Appeal against  
order of local  
authority.

42 & 43 Vict.  
c. 49.

**35.**—(1) Any person (*u*) aggrieved by an order of the local authority under this part of this Act, may appeal against the same to a court of quarter sessions (*x*) and no work shall be done nor proceedings taken under any order until after the appeal is determined or ceases to be prosecuted; and section thirty-one of the Summary Jurisdiction Act, 1879, respecting appeals from courts of summary jurisdiction to courts of quarter sessions shall apply with the necessary modifications as if the order of the local authority were an order of a court of summary jurisdiction.

(2) Provided that—

(a) Notice of appeal may be given within one month after (*y*) notice of the order of the local authority has been served on such person;

(b) The court shall, at the request of either party, state the facts specially for the determination of a superior court, in which case the proceedings may be removed into that court.

Grant of  
charges by  
way of  
annuity to  
owner on  
completion of  
works.

**36.**—(1) Where any owner has completed in respect of any dwelling-house any works required to be executed by an order of a local authority under this part of this Act, he may apply to the local authority for a charging order, and shall produce to the local authority the certificate of their surveyor or engineer that the works have been executed to his satisfaction, and also the accounts of and vouchers for the costs, charges, and expenses of the works, and the local authority, when satisfied that the owner has duly executed such works and of the amount of such costs, charges, and expenses, and of the costs of obtaining the charging order which have been properly incurred, shall make an order accordingly, charging on the dwelling-house an annuity to repay the amount (*z*).

(2) The annuity charged shall be a sum of six pounds for every one hundred pounds of the said amount and so in proportion for any less sum, and shall commence from the date of the order, and be payable for a term of thirty years to the owner named in such order, his executors, administrators, or assigns (*a*).

(3) Every such annuity may be recovered by the person for the time being entitled to it by the same means and in the like manner in all respects as if it were a rentcharge granted by deed out of the dwelling-house by the owner thereof.

(4) Charging orders made under this section shall be made according to the form marked A. in the fifth schedule of this Act, or as near thereto as the circumstances of the case will admit.

Incidence of  
charge.

**37.**—(1) Every charge created by a charging order under this part of this Act shall be a charge on the dwelling-house specified in the order, having priority over all existing and future estates, interests, and incumbrances, with the exception of quitrents and other charges incident to tenure, tithe commutation rentcharge, and any charge created under any Act authorising advances of public money; and where more charges than one are charged under this part of this Act on any dwelling-house such charges shall, as between themselves, take order according to their respective dates.

(*u*) **Person** includes any body of persons, corporate or unincorporate. Interpretation Act, 1889 (52 & 53 Vict. c. 63), sec. 19.

(*x*) **Appeal to quarter sessions.**—The only appeal against a demolition order made by a local authority is to quarter sessions under this section. A magistrate has no jurisdiction to determine such an order. *Reg. v. De Rutzen*, 9 T. L. R. 41. Where a magistrate declines to hear an application on the ground of want of jurisdiction, the proper remedy is by rule requiring him to hear the case, and not by rule requiring him to state a case. *Ib.* As to appeal from a closing order made by a magistrate, see sec. 32 (2), and note thereto, *ante*.

(*y*) **Within . . . months.**—See note (*t*) on page 959.

(*z*) **"Owner" entitled to charging order.**—See *Reg. v. St. Marylebone Vestry*, *ante*, p. 957.

(*a*) **Recovery of annuity.**—Under the corresponding provision of the repealed Artizans' and Labourers' Dwellings Act, 1868 (31 & 32 Vict. c. 130) it was held that the annuity was a charge upon the premises, recoverable from the tenant in possession, and not from the freeholder. *Hyde v. Berners*, 53 J. P. 453; 5 T. L. R. 406.



(2) A charging order shall be conclusive evidence that all notices, acts, and proceedings by this part of this Act directed with reference to or consequent on the obtaining of such order, or the making of such charge, have been duly served, done, and taken, and that such charge has been duly created, and that it is a valid charge on the dwelling-house declared to be subject thereto. 53 & 54 Vict. c. 70.

(3) Every such charging order, if it relates to a dwelling-house in the area to which the enactments relating to the registration of land in Middlesex apply (b) or to a dwelling-house in Yorkshire, shall be registered in like manner as if the charge were made by deed by the absolute owner of the dwelling-house.

(4) Copies of the charging order and of the certificate of the surveyor or engineer, and of the accounts as passed by the local authority, certified to be true copies by the clerk of the local authority, shall within six months after the date of the order be deposited with the clerk of the peace of the county in which the dwelling-house is situate, and be by him filed and recorded.

(5) The benefit of any such charge may be from time to time transferred in like manner as a mortgage or rentcharge may be transferred. Any transfer may be in the form marked B. in the fifth schedule to this Act, or in any other convenient form.

#### *Obstructive Buildings.*

38.—(1) If a medical officer of health finds that any building within his district, although not in itself unfit for human habitation, is so situate that by reason of its proximity to or contact with any other buildings it causes one of the following effects, that is to say—

Power to local authority to purchase houses for opening alleys, &c.

(a) It stops ventilation, or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation or dangerous or injurious to health; or

(b) It prevents proper measures from being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings;

in any such case, the medical officer of health shall represent (c) to the local authority the particulars relating to such first-mentioned building (in this Act referred to as “an obstructive building”) stating that in his opinion it is expedient that the obstructive building should be pulled down.

(2) Any four or more inhabitant householders of a district may make to the local authority of the district a representation as respects any building to the like effect as that of the medical officer under this section.

(3) The local authority on receiving any such representation as above in this section mentioned shall cause a report to be made to them respecting the circumstances of the building and the costs of pulling down the building and acquiring the land, and on receiving such report shall take into consideration the representation and report, and if they decide to proceed, shall cause a copy of both the representation and report to be given to the owner of the lands on which the obstructive building stands, with notice of the time and place appointed by the local authority for the consideration thereof; and such owner shall be at liberty to attend and state his objections, and after hearing such objections the local authority shall make an order (d) either allowing the objection or directing that such obstructive building shall be pulled down, and such order shall be subject to appeal in like manner as an order of demolition of the local authority under the foregoing provisions of this part of this Act.

(4) Where an order of the local authority for pulling down an obstructive building is made under this section and either no appeal is made against the order, or an appeal is made and either fails or is abandoned, the local authority

(b) **Registration.**—The enactments relating to the registration of land in Middlesex are the Middlesex Registry Act, 1708 (7 Anne, c. 20), and the Lands Registry (Middlesex Deeds) Act, 1891 (54 & 55 Vict. c. 64). See also the Lands Registry (Middlesex Deeds) Rules, 1892. *Quære* whether such a charge does not require to be registered under the Land Charges Registration and Searches Act, 1888 (51 & 52 Vict. c. 51). See *Reg. v. Vice-Registrar of Office of Land Registry*, 24 Q. B. D. 178; 59 L. J. Q. B. 113.

(c) **Shall represent.**—In writing. Sec. 79 (2), *post*.

(d) **Shall make an order.**—The provisions of this sub-section are qualified by sec. 73 (1) (a), *post*, where the local authority resolve that the case is of such general importance to the county that it should be dealt with by a scheme under part i., *ante*.

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shall be authorised to purchase the lands on which the obstructive building is erected in like manner as if they had been authorised by a special Act to purchase the same; and for the purpose of such purchase the provisions of the Lands Clauses Acts (*e*), with respect to the purchase and taking of lands otherwise than by agreement shall be deemed to be incorporated in this part of this Act (subject nevertheless to the provisions of this part of this Act) (*f*), and for the purpose of the provisions of the Lands Clauses Acts (*e*) this part of this Act shall be deemed to be the special Act, and the local authority to be the promoters of the undertaking, and such lands may be purchased at any time within one year after the date of the order, or if it was appealed against after the date of the confirmation.

(5) The owner of the lands may within one month after (*g*) notice to purchase the same is served upon him declare that he desires to retain the site of the obstructive building and undertake either to pull down or to permit the local authority to pull down the obstructive building, and in such case the owner shall retain the site and shall receive compensation from the local authority for the pulling down of the obstructive building.

(6) The amount of such compensation, and also the amount of any compensation to be paid on the purchase of any lands under this section, shall in case of difference be settled by arbitration in manner provided in this part of this Act.

(7) Where the local authority is empowered to purchase land compulsorily, it shall not be competent for the owner of a house or manufactory to insist on his entire holding being taken, where part only is proposed to be taken as obstructive, and where such part proposed to be taken can, in the opinion of the arbitrator to whom the question of disputed compensation is submitted, be severed from the remainder of the house or manufactory without material detriment thereto, provided that compensation may be awarded in respect of the severance of the part so proposed to be taken in addition to the value of that part.

(8) Where in the opinion of the arbitrator the demolition of an obstructive building adds to the value of such other buildings as are in that behalf mentioned in this section, the arbitrator shall apportion so much of the compensation to be paid for the demolition of the obstructive building as may be equal to the increase in value of the other buildings amongst such other buildings respectively, and the amount apportioned to each such other building in respect of its increase in value by reason of the demolition of such obstructive building shall be deemed to be private improvement expenses incurred by the local authority in respect of such building, and such local authority may, for the purpose of defraying such expenses, make and levy improvement rates on the occupier of such premises accordingly; and the provisions of the Public Health Acts relating to private improvement expenses and to private improvement rates (*h*), shall so far as circumstances admit, apply accordingly in the same manner as if such provisions were incorporated in this Act.

(9) If any dispute arises between the owner or occupier of any building (to which any amount may be apportioned in respect of private improvement expenses) and the arbitrator by whom such apportionment is made, such dispute shall be settled by two justices in manner provided by the Lands Clauses Acts (*c*), in cases where the compensation claimed in respect of lands does not exceed fifty pounds.

(10) Where the owner retains the site or any part thereof, no house or other building or erection which will be dangerous or injurious to health, or which will be an obstructive building within the meaning of this section, shall be erected upon such site or any part thereof: and if any house, building, or erection is erected on the site contrary to the provisions of this section the local authority may at any time order the owner to abate or alter the said house, building, or erection; and in the event of non-compliance with such order may, at the expense of the owner thereof, abate or alter the same.

(*c*) **Lands Clauses Acts.**—See note to sec. 20, *ante*.

(*f*) **Subject to provisions of this Act,** i.e., subject to the provisions of the above section (38), and sec. 41, *post*.

(*g*) **Within one month after.**—See note to sec. 34 (1), *ante*.

(*h*) **Private improvement rates.**—See the Pub. Hlth. Act, 1875, sec. 213 *et seq.*, *post*, p. 990. These provisions are extended to London by sec. 46 (1) of the present Act, *post*.

(11) Where the lands are purchased by the local authority the local authority shall pull down the obstructive building, or such part thereof as may be obstructive within the meaning of this section, and keep as an open space the whole site, or such part thereof as may be required to be kept open for the purpose of remedying the nuisance or other evils caused by such obstructive building, and may, with the assent of the *Local Government Board* (i), and upon such terms as that Board think expedient sell such portion of the site as is not required for the purpose of carrying this section into effect.

(12) A local authority may, where they so think fit, dedicate any land required by them under the authority of this section as a highway or other public place.

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*Scheme for Reconstruction.*

**39.**—(1) In any of the following cases, that is to say—

(a) where an order for the demolition of a building has been made in pursuance of this part of this Act, and it appears to the local authority that it would be beneficial to the health of the inhabitants of the neighbouring dwelling-houses if the area of the dwelling-house of which such building forms part were used for all or any of the following purposes, that is to say, either—

(i) dedicated as a highway or open space, or

(ii) appropriated, sold, or let for the erection of dwellings for the working classes, or

(iii) exchanged with other neighbouring land which is more suitable for the erection of such dwellings, and on exchange will be appropriated, sold, or let for such erection; or

(b) where it appears to the local authority that the closeness, narrowness, and bad arrangement or bad condition of any buildings, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defect in any buildings is dangerous or prejudicial to the health of the inhabitants either of the said buildings or of the neighbouring buildings, and that the demolition or the reconstruction and re-arrangement of the said buildings or of some of them is necessary to remedy the said evils, and that the area comprising those buildings and the yards, outhouses, and appurtenances thereof, and the site thereof, is too small to be dealt with as an unhealthy area under part one of this Act,

the local authority shall pass a resolution to the above effect and direct a scheme to be prepared for the improvement of the said area.

(2) Notice of the scheme may at any time after the preparation thereof be served in manner provided in part one of this Act (k) with respect to notices of lands proposed to be taken compulsorily under a scheme made in pursuance of that part of this Act, on every owner or reputed owner, lessee or reputed lessee, and occupier of any part of the area comprised in the scheme, so far as those persons can reasonably be ascertained.

(3) The local authority shall, after service of such notice, petition the Local Government Board for an order sanctioning the scheme, and the Board may cause a local inquiry to be held, and, if satisfied on the report of such local inquiry that the carrying into effect of the scheme either absolutely, or subject to conditions or modifications would be beneficial to the health of the inhabitants of the said buildings or of the neighbouring dwelling-houses, may by order sanction the scheme with or without such conditions or modifications.

(4) Upon such order being made, the local authority may purchase by agreement the area comprised in the scheme as so sanctioned, and if they agree for the purchase of the whole area, the order, save so far as it provides for the taking of land otherwise than by agreement, shall take effect without confirmation. If they do not so agree, the order shall be published by the local authority by inserting a notice thereof in the London Gazette, and by serving notice thereof on the owners of every part of the area.

(5) Any owner may, within two months after such publication, petition the Local Government Board against the order, and if such petition is presented and is not withdrawn, the order shall be provisional unless it is confirmed by Act of Parliament.

Scheme for  
area com-  
prising houses  
closed by  
closing order.

(i) **Loc. Govt. Bd.**—Substitute a Secretary of State for the Loc. Govt. Bd. in applying this sub-section to the administrative county of London. Sec. 46 (4), *post*.

(k) **Service of notice.**—See sec. 7, *ante*.



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(6) If the Local Government Board are satisfied that the order has been duly published, and that two months after such publication have expired, and that either a petition has not been presented, or if presented has been withdrawn, they shall confirm the order, and thereupon such order shall come into operation, and have effect as if it were enacted by this Act.

(7) The order may incorporate the provisions of the Lands Clauses Acts, and for the purpose of those provisions this Act shall be deemed to be the special Act, and the local authority to be the promoters of the undertaking, and the area shall be acquired within three years after the date of the confirmation of the order: Provided that the amount of compensation shall, in case of difference, be settled by arbitration in manner provided by this part of this Act.

(8) The provisions of part one of this Act relating to costs to be awarded in certain cases by a committee of either House of Parliament (*l*), to the duty of a local authority to carry a scheme when confirmed into execution (*m*), to the completion of a scheme on failure by a local authority (*n*), and to the extinction of rights of way and other easements (*o*), shall, with the necessary modifications, apply for the purpose of any scheme under this section in like manner as if it were a scheme under part one of this Act.

(9) The Local Government Board, on being satisfied by the local authority that an improvement can be made in the details of any scheme under this section, may by order permit the local authority to modify any part of the scheme which it may appear inexpedient to carry into execution: Provided that—

(a) if the order sanctioning the scheme was confirmed by Parliament, a statement of such modification shall be laid by the Local Government Board before both Houses of Parliament as soon as practicable; and

(b) in any case, if the modification requires a larger expenditure than that sanctioned by the original scheme, or authorises the taking of any property otherwise than by agreement, or injuriously affects any property in a manner different from that proposed in the original scheme, without the consent of the owner or occupier of such property, notice of the order authorising the modification shall be published, and the order may be petitioned against and shall be subject to confirmation in like manner as if it were an order sanctioning an original scheme under this section.

Provisions for  
accommodation  
of persons of  
the working  
classes.

40. The Local Government Board shall in any order sanctioning a scheme under this part of this Act require the insertion in the scheme of such provisions (if any) for the dwelling accommodation of persons of the working classes displaced by the scheme as seem to the Board required by the circumstances.

#### *Settlement of Compensation.*

Provisions as  
to arbitration.

41. In all cases in which the amount of any compensation is, in pursuance of this part of this Act, to be settled by arbitration, the following provisions shall have effect; namely—

(1) The amount of compensation shall be settled by an arbitrator to be appointed and removable by the Local Government Board.

(2) In settling the amount of any compensation—

(a) The estimate of the value of the dwelling-house shall be based on the fair market value as estimated at the time of the valuation being made of such dwelling-house, and of the several interests in such dwelling-house, due regard being had to the nature and then condition of the property and the probable duration of the buildings in their existing state, and to the state of repair thereof, and without any additional allowance in respect of compulsory purchase (*p*); and

(*l*) **Costs.**—See sec. 9, *ante*.

(*m*) **Duty of local authority.**—See sec. 12, *ante*.

(*n*) **Failure by local authority.**—See sec. 13, *ante*.

(*o*) **Extinction of rights of way.**—See sec. 22, *ante*.

(*p*) **Principle of compensation.**—Under almost identical language of a provisional order made by the Loc. Govt. Bd. under a local Act, it was held that in estimating the value of houses the arbitrator ought to consider what they would sell for. Then, having got that sum fixed, he might make what deductions he thought proper, having regard to the nature, the then condition, the probable duration, and the state of repair of the buildings. On this head a fair element would be the insanitary condition of the property. *Gough v. Liverpool (Mayor, &c., of)*, 55 J. P. 789;

- (b) The arbitrator shall have regard to and make an allowance in respect of any increased value which, in his opinion, will be given to other dwelling-houses of the same owner by the alteration or demolition by the local authority of any buildings. 53 & 54 Vict. c. 70.
- (3) Evidence shall be receivable by the arbitrator to prove—
- (1st) That the rental of the dwelling-house was enhanced by reason of the same being used for illegal purposes or being so overcrowded as to be dangerous or injurious to the health of the inmates; or
  - (2ndly) that the dwelling-house is in a state of defective sanitation, or is not in reasonably good repair; or
  - (3rdly) that the dwelling-house is unfit, and not reasonably capable of being made fit, for human habitation;
- and, if the arbitrator is satisfied by such evidence, then the compensation—
- (a) shall in the first case so far as it is based on rental be based on the rental which would have been obtainable if the dwelling-house was occupied for legal purposes and only by the number of persons whom the dwelling-house was under all the circumstances of the case fitted to accommodate without such overcrowding as is dangerous or injurious to the health of the inmates; and
  - (b) shall in the second case be the amount estimated as the value of the dwelling-house if it had been put into a sanitary condition, or into reasonably good repair, after deducting the estimated expense of putting it into such condition or repair; and
  - (c) shall in the third case be the value of the land, and of the materials of the buildings thereon.
- (4) On payment or tender to the person entitled to receive the same of the amount of compensation agreed or awarded to be paid in respect of the dwelling-house, or on payment thereof in manner prescribed by the Lands Clauses Acts (g), the owner shall, when required by the local authority, convey his interest in such dwelling-house to them, or as they may direct; and in default thereof, or if the owner fails to adduce a good title to such dwelling-house to the satisfaction of the local authority, it shall be lawful for the local authority, if they think fit, to execute a deed poll in such manner and with such consequences as are mentioned in the Lands Clauses Acts.
- (5) Sections thirty-two, thirty-three, thirty-five, thirty-six, and thirty-seven of the Lands Clauses Consolidation Act, 1845 (g), shall apply, with any necessary modifications, to an arbitration and to an arbitrator appointed under this part of this Act. 8 & 9 Vict. c. 18.
- (6) The arbitrator may, by one award, settle the amount or amounts of compensation payable in respect of all or any of the dwelling-houses included in one or more order or orders made by the local authority; but he may, and, if the local authority request him so to do, shall, from time to time make an award respecting a portion only of the disputed cases brought before him.
- (7) In the event of the death, removal, resignation, or incapacity, refusal, or neglect to act of any arbitrator before he shall have made his award, the Local Government Board may appoint another arbitrator, to whom all documents relating to the matter of the arbitration which were in the possession of the former arbitrator shall be delivered.
- (8) The arbitrator may, where he thinks fit, on the request of any party by whom any claim has been made before him, certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the local authority.
- (9) The arbitrator shall not give such certificate where the arbitrator has awarded the same or a less sum than has been offered by the local authority

65 L. T. (N. S.) 512. The arbitrator in that case subsequently awarded the market value, less 30 per cent. for the insanitary condition of the property, and the court held that as the arbitrator had estimated the amount of compensation on the right principle they could not interfere with his award. *Ib.*, 56 J. P. 357; 8 T. L. R. 247, 323.

(g) **Lands Clauses Consolidation Act, 1845.**—As to this Act, see Cripps on the “Law of Compensation,” and other works on the same subject, which is too lengthy to be dealt with here.

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in respect of such claim before the appointment of the arbitrator, and need not give such certificate to any party where he considers that such party neglected, after due notice from the local authority, to deliver to that authority a statement in writing within such time, and containing such particulars respecting the compensation claimed, as would have enabled the local authority to make a proper offer of compensation to such party before the appointment of the arbitrator.

- (10) If within seven days after demand the amount so certified be not paid to the party entitled to receive the same, such amount shall be recoverable as a debt from the local authority with interest at the rate of five per cent. per annum for any time during which the same remains unpaid after such seven days as aforesaid.
- (11) The award of the arbitrator shall be final and binding on all parties.

#### *Expenses and Borrowing.*

Expenses of  
local authority.

**42.**—(1) All expenses incurred by a local authority in the execution of this part of this Act shall be defrayed by them out of the local rate (*r*); and that authority, notwithstanding any limit contained in any Act of Parliament respecting a local rate, may levy such local rate, or any increase thereof, for the purposes of this part of this Act.

(2) Any expenses incurred by a rural sanitary authority under this part of this Act, other than the expenses incurred in and incidental to proceedings for obtaining a closing order, shall be charged as special expenses on the contributory place in respect of which they are incurred.

Provision as to  
borrowing.

**43.**—(1) A local authority may borrow for the purpose of raising sums required for purchase money or compensation (*s*) payable under this part of this Act in like manner, and subject to the like conditions, as for the purpose of defraying the expenses of the execution by such authority of the Public Health Acts (*t*).

(2) The Public Works Loan Commissioners may, if they think fit, lend to any local authority the sums borrowed in pursuance of this part of this Act.

Annual  
account to be  
presented by  
the local  
authority.

**44.** Every local authority shall every year present to the *Local Government Board* (*u*), in such form as they may direct, an account of what has been done, and of all moneys received and paid by them during the previous year, with a view to carrying into effect the purposes of this part of this Act.

#### *Powers of County Councils.*

Powers of  
county  
councils.

**45.**—(1) Where the medical officer of health or any inhabitant householders make a representation or complaint, or give information to any vestry or district board in the administrative county of London or to the local board of Woolwich, or to any rural sanitary authority elsewhere (which vestry, board, or authority is in this Act referred to as the district authority) or to the medical officer of such authority either respecting any dwelling-house being in a state so dangerous or injurious to health as to be unfit for human habitation (*x*), or

(*r*) **Local rate** is defined by sec. 92 and sched. 1, *post*.

(*s*) **Borrowing powers under a scheme for reconstruction.**—“For any purpose for which a local authority are, by a scheme for reconstruction duly sanctioned under part ii. of the Housing of the Working Classes Act, 1890, or by the order sanctioning the scheme, authorised to borrow, the authority shall have power and shall be deemed always to have had power to borrow in like manner and subject to the like conditions as they may borrow under section forty-three of that Act for the purpose of raising the sums required for the purchase money or compensation therein mentioned, and sections forty-three and forty-six of that Act shall apply accordingly.” Housing of the Working Classes Act, 1894 (57 & 58 Vict. c. 55), sec. 1. As to a scheme for reconstruction, see sec. 39, *ante*.

(*t*) **Public Health Acts.**—In London a local authority will borrow in accordance with the provisions of sec. 46 (2), *post*, and not under the Pub. Hlth. Acts; excepting the Woolwich Local Board, which will borrow as provided by the present section. Sec. 46 (8), *post*.

(*u*) **Local Govt. Bd.**—In London the account is presented to a Secretary of State instead of the Loc. Govt. Bd. Sec. 46 (4), *post*.

(*x*) **Unfit for human habitation.**—See secs. 30 and 31, *ante*.



respecting an obstructive building (*y*), and also where a closing order (*z*) has been made as respects any dwelling-house, the district authority shall forthwith forward to the county council of the county in which the dwelling-house or building is situate, a copy of such representation, complaint, information, or closing order, and shall from time to time report to the council such particulars as the council require respecting any proceedings taken by the authority with reference to such representation, complaint, information, or dwelling-house.

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(2) Where the county council—

- (a) are of opinion that proceedings for a closing order as respects any dwelling-house ought to be instituted, or that an order ought to be made for the demolition of any buildings forming or forming part of any dwelling-house as to which a closing order has been made, or that an order ought to be made for pulling down an obstructive building specified in any representation under this part of this Act; and
- (b) after reasonable notice, not being less than one month, of such opinion has been given in writing to the district authority, consider that such authority have failed to institute or properly prosecute proceedings, or to make the order for demolition, or to take steps for pulling down an obstructive building;

the council may pass a resolution to that effect, and thereupon the powers of the district authority as respects the said dwelling-house and building under this part of this Act (otherwise than in respect of a scheme), shall be vested in the county council, and if a closing order or an order for demolition or for pulling down an obstructive building is made, and not disallowed on appeal (*a*), the expenses of the council incurred as respects the said dwelling-house and building, including any compensation paid, shall be a simple contract debt to the council from the district authority.

(3) Any debt to the council under this section shall be defrayed by the district authority as part of their expenses in the execution of this part of this Act.

(4) The county council and any of their officers shall, for the purposes of this section, have the same right of admission to any premises as any district authority or their officers have for the purpose of the execution of their duties under the enactments relating to public health, and a justice may make the like order for enforcing such admission (*b*).

#### *Special Provisions as to London.*

46. This part of this Act shall apply to the administrative county of London with the following modifications:—

Application of  
part of Act to  
London.

- (1) The provisions of the Public Health Acts relating to private improvement expenses and to private improvement rates (*c*) shall, for the purpose of this part of this Act, extend to the county and to the City of London, and in the construction of the said provisions, as respects the county of London, any local authority in that county, and as respects the City of London the commissioners of sewers shall be deemed to be the urban authority.
- (2) The raising of sums required for purchase money or compensation (*d*) payable under this part of this Act shall be a purpose for which the London County Council or the commissioners of sewers of the City of London, may borrow under part one of this Act (*e*), and a purpose for which a vestry or district board may borrow under the Metropolis Management Act, 1855, and the provisions of part one of this Act with respect to borrowing, and

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(*y*) **Obstructive building.**—See sec. 38, *ante*.

(*z*) **Closing order.**—See sec. 32, *ante*.

(*a*) **Appeal.**—See sec. 35, *ante*.

(*b*) **Admission to premises.**—See sec. 115 of the Pub. Hlth. (London) Act, 1891, *ante*, vol. i., as to the power of the metropolitan sanitary authorities to enter premises for the purposes of that Act.

(*c*) **Private improvement expenses and rates.**—See the Pub. Hlth. Act, 1875, secs. 213—215, 257, and 261, *post*, p. 990.

(*d*) **Borrow for purchase money or compensation.**—This power to borrow now extends to borrowing money for a scheme of reconstruction under sec. 39, *ante*. See note to sec. 43 (1), *ante*.

(*e*) **Borrow under part i.**—See sec. 25 (1), (2), and (3), *ante*, as to borrowing by the London County Council or the Commissioners of Sewers of the City.

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c. 70.

sections one hundred and eighty-three to one hundred and ninety-one of the Metropolis Management Act, 1855 (*f*), shall apply and have effect accordingly.

- (3) The London County Council may, if they think fit, lend to a local authority in the administrative county of London the sums borrowed in pursuance of this part of this Act.
- (4) For the purpose of the assent required for the sale of any portion of the site of an obstructive building (*g*) by a local authority, and of the account to be presented (*h*) by a local authority of what has been done by them and of moneys received and paid by them during the previous year a Secretary of State shall be substituted for the Local Government Board.
- (5) Where it appears to the county council, whether in the exercise of the powers of a vestry or district board or on the representation of a vestry or district board or otherwise, that a scheme under this part of this Act ought to be made, the council may take proceedings for preparing and obtaining the confirmation of a scheme, and the provisions of this Act respecting the scheme shall apply in like manner as if they were the vestry or district board, and all expenses of and incidental to the scheme and carrying the same into effect shall, save as hereinafter mentioned, be borne by the county fund.
- (6) Where the council consider that such expenses, or a contribution in respect of them, ought to be paid or made by a vestry or district board, they may apply to a Secretary of State, and the Secretary of State, if satisfied that, having regard to the size of the area, to the number, position, structure, sanitary condition, and neighbourhood of the buildings to be dealt with, the vestry or district board ought to pay, or make a contribution in respect of, the said expenses, the Secretary of State may order such payment or contribution to be made, and the amount thereof shall be a simple contract debt from the vestry or district board to the council.
- (7) The county council may, if they think fit, pay or contribute to the payment of the expenses of carrying into effect any scheme under this part of this Act by a vestry or district board, and if a vestry or district board consider that the expenses of carrying into effect any scheme under this part of this Act, or a contribution in respect of those expenses, ought to be paid or made by the county council, and the county council decline or fail to agree to pay or make the same, the vestry or district board may apply to a Secretary of State, and if the Secretary of State is satisfied that, having regard to the size of the area, to the number, position, structure, sanitary condition, and neighbourhood of the buildings to be dealt with, the council ought to pay or make a contribution in respect of the said expenses, he may order such payment or contribution to be made, and the amount thereof shall be a simple contract debt from the council to the vestry or district board.
- (8) In the application of this section to Woolwich, the local board of health shall be deemed to be a district board, but the raising of any sums required for purchase money or compensation payable under this part of this Act shall be a purpose for which they may borrow under the Public Health Acts, and the Public Health Acts shall apply accordingly.

#### Supplemental.

Provision as to  
superior  
landlord.

47.—(1) Where an owner (*i*) of any dwelling-house is not the person in receipt of the rents and profits thereof, he may give notice of such ownership to the local authority, and thereupon the local authority shall give such owner notice of any proceedings taken by them in pursuance of this part of this Act in relation to such dwelling-house.

(2) If it appears to a court of summary jurisdiction (*k*) on the application of any owner of the dwelling-house that default is being made in the execution of any works required to be executed on any dwelling-house in respect of which a

(*f*) Met. Man. Act, 1855, secs. 183—191, *ante*, vol. i.

(*g*) Sale of site of obstructive building.—See sec. 38 (11), *ante*.

(*h*) Account to be presented.—See sec. 44, *ante*.

(*i*) Owner is defined by sec. 29, *ante*. See note to that section.

(*k*) Court of summary jurisdiction.—For the meaning of this expression, see note to Mun. Corp. Act, 1882, sec. 21 (3) (b), *ante*, vol. i.

closing order (*l*) has been made, or in the demolition (*l*) of any building or any dwelling-house or in claiming to retain any site (*m*), in pursuance of this part of this Act, and that the interests of the applicant will be prejudiced by such default, and that it is just to make the order, the court may make an order empowering the applicant forthwith to enter on the dwelling-house, and within the time fixed by the order to execute the said works, or to demolish the building or to claim to retain the site, as the case may be, and where it seems to the court just so to do, the court may make a like order in favour of any other owner.

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(3) A court of summary jurisdiction (*n*) may in any case by order enlarge the time allowed under any order for the execution of any works or the demolition of a building, or the time within which a claim may be made to retain the site of a building.

(4) Before an order is made under this section notice of the application shall be given to the local authority.

48. Nothing in this part of this Act shall prejudice or interfere with the right or remedies of any owner for the breach, non-observance, or non-performance of any covenant or contract entered into by a tenant or lessee in reference to any dwelling-house in respect of which an order is made by a local authority under this part of this Act; and if any owner is obliged to take possession of any dwelling-house in order to comply with any such order, the taking possession shall not affect his right to avail himself of any such breach, non-observance, or non-performance that may have occurred prior to his so taking possession.

Remedies of owner for breach of covenant, &c. not to be prejudiced.

49.—(1) Where the owner of any dwelling-house and his residence or place of business are known to the local authority, it shall be the duty of the clerk of the local authority, if the residence or place of business is within the district of such local authority, to serve any notice by this part of this Act required to be served on the owner, by giving it to him, or for him, to some inmate of his residence or place of business within the district; and in any other case it shall be the duty of the clerk of the local authority to serve the notice by post in a registered letter addressed to the owner at his residence or place of business.

Service of notices.

(2) Where the owner of the dwelling-house or his residence or place of business is not known to, and after diligent inquiry cannot be found by the local authority, then the clerk of the local authority may serve the notice by leaving it, addressed to the owner, with some occupier of the dwelling-house, or if there be not an occupier, then by causing it to be put up on some conspicuous part of the dwelling-house.

(3) Notice served upon the agent of the owner shall be deemed notice to the owner.

50. Where in any proceedings under this part of this Act it is necessary to refer to the owner of any dwelling-house, it shall be sufficient to designate him as the "owner" thereof without name or further description.

Description of owner in proceedings.

51.—(1) If any person being the occupier of any dwelling-house prevents the owner thereof, or being the owner or occupier of any dwelling-house prevents the medical officer of health, or the officers, agents, servants, or workmen of such owner or officer from carrying into effect with respect to the dwelling-house any of the provisions of this part of this Act, after notice of the intention so to do has been given to such person, any court of summary jurisdiction on proof thereof may order such person to permit to be done on such premises all things requisite for carrying into effect, with respect to such dwelling-house, the provisions of this part of this Act.

Penalty for preventing execution of Act.

(2) If at the expiration of ten days after the service of such order such person fails to comply therewith, he shall for every day during which the failure continues be liable on summary conviction to a fine not exceeding twenty pounds: Provided that if any such failure is by the occupier, the owner, unless assenting thereto, shall not be liable to such fine.

52. A representation from the medical officer of health of any county submitted to the county council and forwarded by that council to the local authority of any district in the county, not being a borough as defined by the Municipal

Report to local authority by county medical officer.

(*l*) Closing order. Demolition order.—See secs. 32 to 34, *ante*.

(*m*) Claim to retain site.—See sec. 38 (5), *ante*.

(*n*) Court of summary jurisdiction.—See note (*k*) on page 968.



- 53 & 54 Vict. Corporations Act, 1882, shall, for the purposes of this part of this Act, have  
c. 70. the like effect as a representation from the medical officer of health of the  
district.
- 45 & 46 Vict.  
c. 50.

## PART III.

## WORKING CLASS LODGING HOUSES.

*Adoption of Part III.*

Definition of  
purposes of  
Labouring  
Classes  
Lodging  
Houses Acts.

**53.**—(1) The expression “lodging houses for the working classes” when used in this part of this Act shall include separate houses or cottages for the working classes, whether containing one or several tenements, and the purposes of this part of this Act shall include the provision of such houses and cottages.

(2) The expression “cottage” in this part of this Act may include a garden of not more than half an acre, provided that the estimated annual value (*v*) of such garden shall not exceed three pounds.

Adoption of  
this part  
of Act.

**54.** This part of this Act may be adopted in the several districts mentioned in the first schedule to this Act by the local authorities (*p*) in that behalf in that schedule mentioned: Provided that in the case of any rural sanitary district in England, the adoption shall be only after such certificate and such delay as hereinafter mentioned.

**55.** [*Provisions in case of adoption by rural sanitary authority.*]

*Execution of Part III. by Local Authority.*

Powers of  
local authority.

**56.** Where this part of this Act has been adopted in any district, the local authority shall have power to carry it into execution (subject to the provisions of this part of this Act with respect to rural sanitary authorities), and for that purpose may exercise the same powers whether of contract or otherwise as in the execution of their duties in the case of the London County Council under the Metropolis Management Act, 1855 (*q*), and the Acts amending the same, or in the case of sanitary authorities under the Public Health Acts, or in the case of the commissioners of sewers under the Acts conferring powers on such commissioners.

18 & 19 Vict.  
c. 120.  
38 & 39 Vict.  
c. 55.

Acquisition  
of land.

38 & 39 Vict.  
c. 55.

**57.**—(1) Land for the purposes of this part of this Act may be acquired (*r*) by a local authority in like manner as if those purposes were purposes of the Public Health Act, 1875, and sections one hundred and seventy-five to one hundred and seventy-eight, both inclusive, of that Act (relating to the purchase of lands) (*s*), shall apply accordingly, and shall for the purposes of this part of this Act extend to London in like manner as if the commissioners of sewers and London County Council respectively were a local authority in the said sections mentioned, and a Secretary of State were substituted for the Local Government Board.

(2) The local authority may, if they think fit, contract for the purchase or lease of any lodging houses for the working classes already, or hereafter to be built and provided.

(3) The local authority may, if not a rural sanitary authority with the consent of the Local Government Board, and if a rural sanitary authority with the consent of the county council of the county in which the land is situate, appropriate, for the purposes of this part of this Act, any lodging houses so

(*v*) **Estimated annual value.**—*Quære* whether this means the annual rent without making any deductions on account of repairs or insurance, or the net rateable value after making such deductions. See *Calcill v. Wood*, 2 C. B. 210; 15 L. J. C. P. 160; *Warrington Waterworks Co. v. Longshaw*, 9 Q. B. D. 145; 51 L. J. Q. B. 498; *Dobbs v. Grand Junction Waterworks Co.*, 9 App. Cas. 49; 53 L. J. Q. B. 50.

(*p*) **Local authorities**, i.e., for this part, the Commissioners of Sewers in the City of London, and the County Council in the county of London, exclusive of the City. Sec. 92 and sched. 1, *post*.

(*q*) **Met. Man. Act, 1855.**—See secs. 149 to 154, *ante*, vol. i.

(*r*) **Deficiency in rates.**—A local authority acquiring land under this section must make good any consequent deficiency in rates. *St. Leonard's, Shoreditch v. Lon. Comn. Council*, *ante*, p. 954.

(*s*) **Pub. Hlth. Act, 1875.**—See secs. 175 to 178, *post*, p. 989.

purchased or taken on lease, and any other land which may be for the time being vested in them, or at their disposal. 53 & 54 Vict. c. 70.

58. The trustees of any lodging houses for the working classes for the time being provided in any district by private subscriptions or otherwise, may, with the consent of a majority of the committee or other persons by whom they were appointed trustees, sell or lease the lodging houses to the local authority of the district, or make over to them the management thereof. Local authority may purchase existing lodging houses.

59. The local authority may, on any land acquired or appropriated by them, erect any buildings suitable for lodging houses for the working classes, and convert any buildings into lodging houses for the working classes, and may alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite furniture, fittings, and conveniences. Erection of lodging houses.

60. A local authority may, if not a rural sanitary authority with the consent of the Local Government Board, and if a rural sanitary authority with the consent of the county council of the county in which the land is situate, sell any land vested in them for the purposes of this part of this Act, and apply the proceeds in or towards the purchase of other land better adapted for those purposes, and may in like manner and with the like consent exchange any land so vested in them for land better adapted to the purposes of this part of this Act, either with or without paying or receiving any money for equality of exchange. Sale and exchange of lands.

#### *Management of Lodging Houses.*

61.—(1) The general management, regulation, and control of the lodging houses established or acquired by a local authority under this part of this Act shall be vested in and exercised by the local authority. Management to be vested in local authority.

(2) The local authority may make such reasonable charges for the tenancy or occupation of the lodging houses provided under this part of this Act as they may determine by regulations.

62.—(1) The local authority may make byelaws (t) for the management, use, and regulation of the lodging houses, and it shall be obligatory on the local authority, except in the case of a lodging house which is occupied as a separate dwelling, by such byelaws to make sufficient provision for the several purposes expressed in the sixth schedule to this Act. Byelaws for regulation of lodging houses.

(2) A printed copy or sufficient abstract of the byelaws relating to the management, use, and regulation of the lodging houses shall be put up and at all times kept in every room therein.

63. Any person who, or whose wife or husband, at any time while such person is a tenant or occupier of any such lodging house, or any part of such a lodging house, receives any relief under the Acts relating to the relief of the poor other than relief granted on account only of accident or temporary illness, shall thereupon be disqualified for continuing to be such a tenant or occupier. Disqualification of tenants of lodging houses on receiving parochial relief.

64. Whenever any lodging houses established for seven years or upwards under the authority of this part of this Act are determined by the local authority to be unnecessary or too expensive to be kept up, the local authority may, if not a rural sanitary authority with consent of the Local Government Board, and if a rural sanitary authority with the consent of the county council of the county in which the lodging houses are situate, sell the same for the best price that can reasonably be obtained for the same, and the local authority shall convey the same accordingly. When lodging houses are considered too expensive they may be sold.

#### *Expenses and Borrowing of Local Authorities.*

65. All expenses incurred by a local authority in the execution of this part of this Act shall be defrayed— Payment of expenses.

(i) in the case of an authority in the administrative county of London, out of the dwelling-house improvement fund under part one of this Act (u);

(ii) in the case of an urban sanitary authority . . .

(iii) in the case of a rural sanitary authority . . .

(t) *Byelaws*.—See sec. 84 and sched. 6, *post*.

(u) *Dwelling-house improvement fund*.—See sec. 24, *ante*.

53 & 54 Vict.  
c. 70.

Borrowing for  
purposes of  
part iii.

**66.** The London County Council and the commissioners of sewers may borrow for the purpose of the execution of this part of this Act in like manner and subject to the like conditions as they may borrow for the purposes of part one of this Act (x), and a sanitary authority may borrow for the purpose of the execution of this part of this Act in like manner and subject to the like conditions as for the purpose of defraying the above-mentioned general or special expenses.

*Loans to and Powers of Companies, Societies, and Individuals.*

**67.** [*Loans by Public Works Commissioners to railway, dock, and other companies, and private individuals.*]

(3) For the purpose of constructing or improving or facilitating or encouraging the construction or improvement of dwellings for the working classes, every such body as aforesaid is hereby authorised to purchase, take, and hold land, and if not already a body corporate shall, for the purpose of holding such land under this part of this Act, and of suing and being sued in respect thereof, be nevertheless deemed a body corporate with perpetual succession.

**68.** [*Powers to railway, dock, and other companies, &c., to erect dwellings for accommodation of persons of working class employed by them (y).*]

Power to water  
and gas com-  
panies to  
supply water  
and gas to  
lodging houses.

**69.** Any commissioners of waterworks, trustees of waterworks, water companies, gas companies, and other corporations, bodies, and persons having the management of any waterworks, reservoirs, wells, springs, or streams of water, and gasworks respectively, may, in their discretion, grant and furnish supplies of water or gas for lodging houses provided under this part of this Act, either without charge or on such other favourable terms as they think fit.

Inspection of  
lodging houses.

**70.** A lodging house established in any district under this part of this Act, shall be at all times open to the inspection of the local authority of that district or of any officer from time to time authorised by such authority.

Application of  
penalties.

**71.** Any fine for the breach of any byelaw under this part of this Act shall be paid to the credit of the funds out of which the expenses of this part of this Act are defrayed (z).

PART IV.

SUPPLEMENTAL.

Limit of area  
to be dealt  
with on official  
representation.

**72.** Where an official representation made to the London County Council in pursuance of part one of this Act (a) relates to not more than ten houses, the London County Council shall not take any proceedings on such representation, but shall direct the medical officer of health making the same to represent the case to the local authority under part two of this Act, and it shall be the duty of the local authority to deal with such case in manner provided by that part of this Act (b).

Provisions as  
to parts of Act  
under which  
reports are to  
be dealt with  
in county of  
London.

**73.—(1)** In either of the following cases :

(a) Where a medical officer of health has represented to any local authority in the county of London under part two of this Act that any dwelling-houses are in a condition so dangerous or injurious to health, as to be unfit for human habitation, or that the pulling down of any obstructive buildings would be expedient, and such authority resolve that the case of such

(x) **Borrowing for purposes of part i.**—See sec. 25, *ante*.

(y) **Any railway company, &c.**—Dwelling-houses built by a railway company for their servants are not buildings "used for the purposes of such railway under any Act of Parliament" within the meaning of the Pub. Hlth. Act, 1875 (38 & 39 Vict. c. 55), sec. 157, and are therefore subject to the byelaws of a local authority made under that section with respect to the erection of new buildings. *Manchester, Sheffield, and Lincolnshire Rail. Co. v. Barnsley Union (Guardians of)*, 56 J. P. 679; 67 L. T. (N. S.) 119.

(z) **Application of penalties.**—In London such fines will be paid to the credit of the dwelling-house improvement fund. See sec. 65, *ante*.

(a) **Representation to county council.**—See secs. 4 and 5, *ante*. The present section qualifies sec. 4.

(b) **In manner provided by part ii.**—See sec. 30 *et seq.*, *ante*.



dwelling-houses or buildings is of such general importance to the county of London that it should be dealt with by a scheme under part one of this Act (c); or

53 & 54 Vict.  
c. 70.

- (b) Where an official representation as mentioned in part one of this Act has been made to the London County Council in relation to any houses, courts, or alleys within a certain area, and that council resolve that the case of such houses, courts, or alleys is not of general importance to the county of London and should be dealt with under part two of this Act (d);

such local authority or council may submit such resolution to a Secretary of State, and thereupon the Secretary of State may appoint an arbitrator, and direct him to hold a local inquiry, and such arbitrator shall hold such inquiry, and report to the Secretary of State as to whether, having regard to the size of the area, to the number of houses to be dealt with, to the position, structure, and sanitary condition of such houses, and of the neighbourhood thereof, and to the provisions of part one of this Act, the case is either wholly or partially of any and what importance to the county of London, with power to such arbitrator to report that in the event of the case being dealt with under part two of this Act, the London County Council ought to make a contribution in respect of the expense of dealing with the case.

(2) The Secretary of State, after considering the report of the arbitrator, may, according as to him seems just, decide that the case shall be dealt with either under part two of this Act, or under part one of this Act, and the medical officer of health or other proper officer shall forthwith make the representation necessary for proceedings in accordance with such decision (e).

**74.**—(1) The Settled Land Act, 1882, shall be amended as follows:—

- (a) Any sale, exchange, or lease of land in pursuance of the said Act, when made for the purpose of the erection on such land of dwellings for the working classes (f), may be made at such price, or for such consideration, or for such rent, as having regard to the said purpose, and to all the circumstances of the case, is the best that can be reasonably obtained, notwithstanding that a higher price, consideration, or rent might have been obtained if the land were sold, exchanged, or leased for another purpose.

Amendment of  
45 & 46 Vict.  
c. 38,  
as regards  
erection of  
buildings for  
working  
classes.

- (b) The improvements on which capital money may be expended, enumerated in section twenty-five of the said Act, and referred to in section thirty of the said Act, shall, in addition to cottages for labourers, farm servants, and artizans whether employed on the settled land or not, include any dwellings available for the working classes, the building of which in the opinion of the court is not injurious to the estate (g).

(2) Any body corporate holding land may sell, exchange, or lease the land for the purpose of the erection of dwellings for the working classes at such price, or for such consideration, or for such rent as having regard to the said purpose and to all the circumstances of the case is the best that can reasonably be obtained, notwithstanding that a higher price, consideration, or rent might have been obtained if the land were sold, exchanged, or leased for another purpose.

**75.** In any contract made after the fourteenth day of August, one thousand eight hundred and eighty-five, for letting for habitation by persons of the working classes a house or part of a house, there shall be implied a condition that the house is at the commencement of the holding in all respects reasonably fit for

Condition to  
be implied on  
letting houses  
for the working  
classes.

(c) **Such authority resolve . . .**—This provision qualifies secs. 32 (1) and 38 (3), *ante*.

(d) **Council resolve . . .**—This provision qualifies sec. 4, *ante*.

(e) **Representation necessary.**—Under part i., see sec. 5, *ante*; under part ii., see secs. 30 and 38 (1), *ante*.

(f) **Working classes.**—The provisions of this section, which is a re-enactment of sec. 11 of the repealed Housing of the Working Classes Act, 1885, have effect as if the expression "working classes" included all classes of persons who earn their livelihood by wages or salaries; but the section only applies to buildings of a rateable value not exceeding £100 per annum. Settled Land Act, 1890 (53 & 54 Vict. c. 69), sec. 18.

(g) **Settled Land Act, 1882.**—Secs. 3, 4, 6, and 7 empower a tenant for life to sell, exchange, or lease settled land at the best price or rent that can reasonably be obtained. Secs. 25 to 30 authorise him, subject to conditions, to expend capital money arising under the Act on certain specified improvements.

53 & 54 Vict.  
c. 70.

32 & 33 Vict.  
c. 41.

Medical officer  
of health in  
county of  
London.

Power to local  
authority to  
enter and  
value premises.

Compensation  
to tenants for  
expense of  
removal.

Duties of  
medical officer  
of health.

Accounts  
and audit.

Power of local  
authority to  
appoint  
committees.

human habitation (*h*). In this section the expression "letting for habitation by persons of the working classes" means the letting for habitation of a house or part of a house at a rent not exceeding in England the sum named as the limit for the composition of rates by section three of the Poor Rate Assessment and Collection Act, 1869 (*i*), and in Scotland or Ireland four pounds.

**76.**—(1) The London County Council may, with the consent of a Secretary of State, at any time appoint one or more legally qualified practitioner or practitioners, with such remuneration as they think fit, for the purpose of carrying into effect any part of this Act.

(2) Any medical officer of health appointed by the London County Council, and any officer appointed under this section by the London County Council, shall be deemed to be a medical officer of health of a local authority within the meaning of this Act.

**77.** Any person authorised by the local authority may at all reasonable times of the day, on giving twenty-four hours' notice in writing (*h*) to the occupier of his intention so to do, enter any dwelling-house, premises, or building which the local authority are authorised to purchase compulsorily under part one or part two of this Act for the purpose of surveying and valuing such dwelling-house, premises, or building.

**78.** Where a building or any part of a building purchased by the local authority in pursuance of a scheme under part one or part two of this Act is not closed by a closing order (*i*), and is occupied by any tenant whose contract of tenancy is for less than a year, the local authority, if they require him to give up possession of such building or part for the purpose of pulling down the building, may make to the said tenant a reasonable allowance on account of his expenses in removing.

**79.**—(1) Anything which under part one or part two of this Act is authorised or required to be done by or to a medical officer of health may be done by or to any person authorised to act temporarily as such medical officer of health.

(2) Every representation made by a medical officer of health in pursuance of this Act shall be in writing (*k*).

**80.**—(1) Separate accounts shall be kept by the local authority and their officers of their receipts and expenditure under each part of this Act.

(2) Such accounts shall be audited in the like manner and with the like power to the officer auditing the same, and with the like incidents and consequences, as the accounts of the local authority are for the time being required to be audited by law.

**81.** For the purposes of this Act, a local authority acting under this Act may appoint out of their own number so many persons as they may think fit, for any

(*h*) **Implied condition.**—A tenant has, under this section, a right to sue his landlord for damages for injuries caused by the premises not being reasonably fit for human habitation owing to any defective state of repair. *Walker v. Hobbs*, 23 Q. B. D. 458; 59 L. J. Q. B. 93.

At common law there is no implied warranty that an unfurnished house is reasonably fit for habitation. *Hart v. Windsor*, 12 M. & W. 68. *Lane v. Car* (1897), 1 Q. B. 415; 45 W. R. 201. Apart from statute, however, it is an implied condition in the letting of a furnished house that it is reasonably fit for habitation when the tenancy begins. *Smith v. Marrable*, 11 M. & W. 5. But there is no implied covenant that the house shall continue fit for habitation during the term. *Sarson v. Roberts* (1895), 2 Q. B. 395; 65 L. J. Q. B. 37.

See also *Keates v. Earl Cadogan*, 10 C. B. 591; *Bartram v. Aldous*, 2 T. L. R. 237; *Campbell v. Lord Wenlock*, 4 F. & F. 716; *Wilson v. Finch Hatton*, 2 Ex. D. 336; 46 L. J. Ex. 489; *Harrison v. Malet*, 3 T. L. R. 58; *Bunn v. Harrison*, ib. 146; *Charsley v. Jones*, 53 J. P. 280; 5 T. L. R. 412; *Bird v. Greville*, 1 C. & E. 317; *Dawson v. Clementson*, 1 T. L. R. 295; *Maclean v. Currie*, 1 C. & E. 361.

(*i*) **Sum named by sec. 3 of Poor Rate Assessment, &c. Act, 1869**, i.e., twenty pounds in the Metropolis.

(*k*) **Writing** includes printing, lithography, photography, or other modes of representing or reproducing words in a visible form. Interpretation Act, 1889 (52 & 53 Vict. c. 63), sec. 20.

(*l*) **Closing order.**—See sec. 33 (5), *ante*, providing for compensation to tenants who are compelled to remove in consequence of a closing order.

purposes of this Act which in the opinion of such authority would be better regulated and managed by means of a committee: Provided that a committee so appointed shall in no case be authorised to borrow any money, to make any rate, or to enter into any contract, and shall be subject to any regulations and restrictions which may be imposed by the authority that formed it.

53 & 54 Vict.  
c. 70.

82. Where a local authority sell any land acquired by them for any of the purposes of this Act, the proceeds of the sale shall be applied for any purpose, including repayment of borrowed money, for which capital money may be applied, and which is approved by the Local Government Board.

Application of  
purchase  
money.

83. Any loan advanced by the Public Works Loan Commissioners in pursuance of this Act or for labourers' dwellings in pursuance of the Public Works Loans Act, 1875, or any Act amending the same, shall bear such rate of interest not less than three pounds two shillings and sixpence per cent. per annum, as the Treasury may from time to time authorise as being in their opinion sufficient to enable such loans to be made without loss to the Exchequer.

Rates of loans  
by Public  
Works Loan  
Commis-  
sioners.

38 & 39 Vict.  
c. 89.

84. With respect to byelaws authorised by this Act to be made—

Application  
of certain  
provisions as  
to byelaws.

18 & 19 Vict.  
c. 120.

(a) sections two hundred and two and two hundred and three of the Metropolis Management Act, 1855 (*m*), where such byelaws are made by the London County Council, or any nuisance authority (*n*) in the administrative county of London; and

38 & 39 Vict.  
c. 55.

(b) the provisions of the Public Health Act, 1875, relating to byelaws, where such byelaws are made by a sanitary authority, shall apply to such byelaws, and a fine or penalty under any such byelaw may be recovered on summary conviction.

85.—(1) For the purposes of the execution of their duties under this Act the Local Government Board may cause such local inquiries to be held as the Board see fit, and the costs incurred in relation to any such local inquiry, and to any local inquiry which any other confirming authority holds or causes to be held, including the salary or remuneration of any inspector or officer of or person employed by the Board or confirming authority engaged in the inquiry not exceeding three guineas a day, shall be paid by the local authorities and persons concerned in the inquiry, or by such of them and in such proportions as the Board or confirming authority may direct, and that Board or authority may certify the amount of the costs incurred, and any sum so certified and directed by that Board or authority to be paid by any local authority or person shall be a debt to the Crown from such local authority or person.

Local  
inquiries.

(2) Sections two hundred and ninety-three to two hundred and ninety-six and section two hundred and ninety-eight of the Public Health Act, 1875 (*o*), shall apply for the purpose of any order to be made by the Local Government Board or any local inquiry which that Board cause to be held in pursuance of any part of this Act.

86.—(1) An order in writing made by a local authority under this Act shall be under their seal and authenticated by the signature of their clerk or his lawful deputy.

Orders,  
notices, &c.

(2) A notice, demand, or other written document proceeding from the local authority under this Act shall be signed by their clerk or his lawful deputy.

87. Any notice, summons, writ or other proceeding at law or otherwise required to be served on a local authority in relation to carrying into effect the objects or purposes of this Act, or any of them, may be served upon that authority by delivering the same to their clerk, or leaving the same at his office with some person employed there.

Service of  
notice, &c.,  
on the local  
authority.

88. (1) A person shall not vote as member of a local authority or county council or any committee thereof upon any resolution or question which is proposed or arises in pursuance of part one or part two of this Act, if it relates to any dwelling-house, building, or land in which he is beneficially interested.

Prohibition  
on persons  
interested  
voting as  
members of  
local authority.

(*m*) **Met. Man. Act, 1855**, secs. 202 and 203, *ante*, vol. i.

(*n*) **Nuisance authority**.—Now a sanitary authority under the Pub. Hlth. (Lon.) Act, 1891. *Ib.* secs. 14 (2), 99, and 142, *ante*, vol. i.

(*o*) **Pub. Hlth. Act, 1875**.—Secs. 293—296 are set out in schedule 1 of the Pub. Hlth. (London) Act, 1891, *ante*, vol. i., and sec. 298 is set out in note to sec. 87 (2) of the Local Govt. Act, 1888, *ante*, vol. i.



53 & 54 Vict.  
c. 70.

Penalty for  
obstructing  
the execution  
of Act.

Punishment  
of offences  
and recovery  
of fines.

Powers of  
Act to be  
cumulative.

Definition of  
local author-  
ity, districts,  
local rate.

Definitions :  
"Land."  
"Sanitary  
district."  
"Sanitary  
authority."  
"Urban and  
rural sanitary  
authority";  
"contributory  
place."  
"Superior  
court."  
"County of  
London."

(2) If any person votes in contravention of this section he shall, on summary conviction, be liable for each offence to a fine not exceeding fifty pounds; but the fact of his giving the vote shall not invalidate any resolution or proceeding of the local authority or county council.

**89.** Where any person obstructs the medical officer of health, or any officer of the local authority, or of the confirming authority mentioned in part one of this Act, in the performance of anything which such officer or authority is by this Act required or authorised to do, such person shall, on summary conviction, be liable to a fine not exceeding twenty pounds.

**90.** Offences under this Act punishable on summary conviction may be prosecuted and fines recovered in manner provided by the Summary Jurisdiction Acts<sup>(p)</sup>.

**91.** All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament, law, or custom, and such other powers may be exercised in the same manner as if this Act had not passed, and nothing in this Act shall exempt any person from any penalty to which he would have been subject if this Act had not passed.

Provided that a local authority shall not, by reason of any local Act relating to a place within its jurisdiction, be exempted from the performance of any duty or obligation to which such authority are subject under any part of this Act.

**92.** In this Act, unless the context otherwise requires, "district," "local authority," and "local rate," mean respectively the areas, bodies of persons, and rates specified in the table contained in the first schedule to this Act, but in part three of this Act and in reference to any power given by that part, or any Act to be done in pursuance thereof shall mean such area, bodies of persons, and rate only in cases where that part of this Act is adopted or being adopted.

**93.** In this Act, unless the context otherwise requires—

The expression "land" includes any right over land:

The expression "sanitary district" means the district of a sanitary authority:

The expression "sanitary authority" means an urban sanitary authority or a rural sanitary authority:

The expressions "urban sanitary authority" and "rural sanitary authority" and "contributory place" have respectively the same meanings as in the Public Health Act, 1875:

The expression "superior court" means the Supreme Court:

The expression "county of London," except where specified to be the administrative county of London, means the county of London exclusive of the city of London<sup>(q)</sup>.

#### PART V.

**94—97.** [*Application of Act to Scotland.*]

#### PART VI.

**98—101.** [*Application of Act to Ireland.*]

#### PART VII.

#### REPEAL AND TEMPORARY PROVISIONS.

**102.** The Acts mentioned in the seventh schedule to this Act are hereby repealed to the extent in the third column of that schedule specified.

Provided that:—

(1) Where the Labouring Classes Lodging Houses Acts, 1851 to 1885, have been adopted in any district, that adoption shall be deemed to be an adoption of part three of this Act, and this Act shall apply accordingly;

(2) Any officer appointed under any enactment hereby repealed shall continue and be deemed to be appointed under this Act;

<sup>(p)</sup> **Summary Jurisdiction Acts**, i.e., the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), and the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49). Interpretation Act, 1889 (52 & 53 Vict. c. 63), sec. 13 (7). For the time and manner of proceeding summarily, see note to sec. 227 of the Met. Man. Act, 1855, *ante*, vol. i.

<sup>(q)</sup> **County of London**.—See Loc. Govt. Act, 1888, sec. 40, *ante*, vol. i.

Repeal of  
Acts.

- (3) Any dwelling-houses acquired by the local authority under the Artizans Dwellings Acts, 1868 to 1885, and vested in them at the commencement of this Act, shall be held by such local authority as if they had been acquired under the provisions of part three of this Act, and any land or premises other than dwelling-houses so acquired and held by them at the commencement of this Act shall be held as if the same had been acquired as a site of an obstructive building in pursuance of part two of this Act, but may with the consent of the authority authorised by the said part of this Act to consent to the sale of land so acquired be appropriated for the purposes of part three of this Act. 53 & 54 Vict. c. 70.

103. The provisions of this Act relating to compensation, to the power of the local authority to enter and value premises, to the compensation of tenants for expense of removal, shall be applicable in the case of all improvement schemes which have been confirmed by Act of Parliament during the session in which this Act is passed. Temporary provisions.

SCHEDULES.

FIRST SCHEDULE.

Sections 54, 92.

ENGLAND AND WALES.

| District.                                                                                                                                                                                                                                       | Local Authority.                                                                       | Local Rate.                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| <i>Throughout Act.</i>                                                                                                                                                                                                                          |                                                                                        |                                                                                                     |
| Urban sanitary district ...                                                                                                                                                                                                                     | The urban sanitary authority.                                                          | The rate out of which the general expenses of the execution of the Public Health Acts are defrayed. |
| The City of London.....                                                                                                                                                                                                                         | The Commissioners of Sewers.                                                           | The sewer rate and the consolidated rate levied by such commissioners, or either of such rates.     |
| (1) <i>For the purpose of Parts I. and III.</i>                                                                                                                                                                                                 |                                                                                        |                                                                                                     |
| The county of London (r)                                                                                                                                                                                                                        | The County Council of London.                                                          | The county fund and the amount payable shall be deemed to be required for special county purposes.  |
| (2) <i>For the purposes of Part II.</i>                                                                                                                                                                                                         |                                                                                        |                                                                                                     |
| A parish other than the parish of Woolwich mentioned in schedule A. to the Metropolis Management Act, 1855, as amended by the Metropolis Management (Amendment) Act, 1885, and the Metropolis Management (Battersea and Westminster) Act, 1887. | The vestry elected under the Metropolis Management Act, 1855.                          | The general rate leviable by such vestry or board under the Metropolis Management Act, 1855.        |
| A district mentioned in schedule B. to the Metropolis Management Act, 1855, as amended by the Metropolis Management (Amendment) Act, 1885, and the Metropolis Management (Battersea and Westminster) Act, 1887.                                 | The board of works for the district elected under the Metropolis Management Act, 1855. |                                                                                                     |
| Parish of Woolwich .....                                                                                                                                                                                                                        | The local board of health                                                              | The district fund and general district rate.                                                        |
| *                                                                                                                                                                                                                                               | *                                                                                      | *                                                                                                   |

(r) County of London, i.e., exclusive of the City of London. Sec. 93, ante.

53 & 54 Vict.  
c. 70.

## SCOTLAND.

\* \* \* \* \*

## IRELAND.

\* \* \* \* \*

## SECOND SCHEDULE.

Section 20.

PROVISIONS WITH RESPECT TO THE PURCHASE AND TAKING OF LANDS IN ENGLAND OTHERWISE THAN BY AGREEMENT, AND OTHERWISE AMENDING THE LANDS CLAUSES ACTS.

*Deposit of Maps and Plans.*1—4. 38 & 39  
Vict. c. 36,  
sch.

(1) The local authority shall as soon as practicable after the passing of the confirming Act cause to be made out, and to be signed by their clerk or some other principal officer appointed by them, maps and schedules of all lands proposed to be taken compulsorily (which lands are hereinafter referred to as the scheduled lands), together with the names, so far as the same can be reasonably ascertained, of all persons interested in such lands as owners or reputed owners, lessees or reputed lessees, or occupiers.

(2) The maps made by the local authority shall be upon such scale and be framed in such manner as may be prescribed by the confirming authority.

(3) The local authority shall deposit such maps and schedules at the office of the confirming authority, and shall deposit and keep copies of such maps and schedules at the office of the local authority.

*Appointment of Arbitrator (s).*

(4) After such deposit at the office of the confirming authority as aforesaid, it shall be lawful for the confirming authority, upon the application of the local authority, to appoint an arbitrator between the local authority, and the persons interested in such of the scheduled lands, or lands injuriously affected by the execution of such scheme, so far as compensation for the same has not been made the subject of agreement.

*Proceedings on Arbitration.*45 & 46 Vict.  
c. 54, sch.  
(1) *a-f.*

(5) Before any arbitrator enters upon any inquiry he shall, in the presence of a justice of the peace (*t*), make and subscribe the following declaration (*u*); that is to say,

“ I *A.B.* do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the Housing of the Working Classes Act, 1890.

*A.B.*

“ Made and subscribed in the presence of

and such declaration shall be annexed to the award when made; and if any arbitrator, having made such declaration wilfully act contrary thereto, he shall be guilty of a misdemeanour.

(6) As soon as an arbitrator has been appointed as aforesaid, the confirming authority shall deliver to him the maps and schedules deposited at their office, and the local authority shall publish once in each of three successive weeks the following particulars:—

(*s*) **Arbitration.**—A submission to arbitration has the same effect in all respects as if it had been made an order of court. Arbitration Act, 1889 (52 & 53 Vict. c. 49), sec. 1. The Act applies to every arbitration under any Act as if the arbitration were pursuant to a submission. *Ib.* sec. 24.

(*t*) **In presence of a justice.**—The declaration may be made before any justice, though not of the same county. *Davies v. South Staffordshire Rly. Coy.*, 21 L. J. M. C. 52; 15 Jur. 1133.

(*u*) **Declaration.**—This declaration may be dispensed with by consent of the parties *Palmer v. Metropolitan Rail. Co.*, 31 L. J. Q. B. 259; 10 W. R. 714.



(1) The appointment of the arbitrator; and

(2) The deposit at the office of the local authority of the copies of such maps and schedules as aforesaid, with a description of the situation of such office, and a statement of the time at which such copies may be inspected by any person desirous of inspecting the same.

53 & 54 Vict.  
c. 70.

42 & 43 Vict.  
c. 63, sch.  
art. 1.

Such publication shall be made not only by advertisement, but also by placards and handbills affixed in conspicuous places on or near the lands to be taken, and also by leaving a notice thereof at each house proposed to be taken, and also by sending a notice thereof by post to the persons interested in such lands as owners or reputed owners, lessees or reputed lessees, so far as they can be reasonably ascertained.

(7) In every case in which compensation is payable under part one of this Act, by the local authority to any claimant, and which compensation has not been made the subject of agreement (in this Act referred to as "a disputed case"), the arbitrator shall ascertain in such manner as he thinks most convenient the amount of compensation demanded by the claimant, and the amount which the local authority may be willing to pay; and after hearing all such parties interested (x) in each disputed case as may appear before him at a time and place of which notice has been given as in part one of this Act mentioned (y), he shall proceed to decide on the amount of compensation to which he may consider the claimant to be entitled in each case.

(8) The arbitrator shall give notice to the claimants in disputed cases by causing such notice to be published or otherwise in such manner as he thinks advisable, of a time and place at which the difference between the claimants and the local authority in disputed cases as to the amount of compensation to be paid will be decided by the arbitrator.

(9) After the arbitrator has arrived at a decision on all the disputed cases brought before him he shall make an award under his hand and seal, and such award shall be final, and be binding and conclusive (subject to the provisions concerning an appeal hereinafter contained) upon all persons whomsoever, and no such award shall be set aside for irregularity in matter of form, but the arbitrator may and, if the local authority request him so to do, shall from time to time make an award respecting a portion only of the disputed cases brought before him.

(10) Such award as aforesaid shall be deposited at the office of the confirming authority, and a copy thereof shall be deposited at the office of the local authority, and the local authority shall thereupon publish once in each of three successive weeks notice of the deposit having been made at the office of the local authority of a copy of the award, and a further notice requiring all persons claiming to have any right to or interest in the lands (the compensation to be paid in respect of which is ascertained by such award) to deliver to the local authority on or before a day to be named in such notice (such day not being earlier than twenty-one days from the date of the last publication of the notice), a short statement in writing of the nature of such claim, and a short abstract of the title of which the same is founded (z); and such statement and abstract shall be paid for by the local authority. Such abstract of title, in the case of a person claiming a fee simple interest in the land, shall commence twenty years previous to the date of the claim, except there has been an absolute conveyance on sale within twenty years, and more than ten years previous to the claim when the abstract shall commence with such conveyance.

#### *Special Powers of Arbitration.*

(11) The arbitrator shall have the same power of apportioning any rent service rentcharge, chief or other rent, payment, or incumbrance, or any rent payable in respect of lands comprised in a lease, as two justices have under the Lands Clauses Consolidation Act, 1845 (a).

Power of  
arbitrator as to  
apportionment.  
42 & 43 Vict.  
c. 63, sch. (2).  
Amendment  
respecting  
severance of  
properties.

(12) Notwithstanding anything in section ninety-two of the Lands Clauses

(x) **Parties interested.**—See *Carr v. Met. Bd. Wks.*, 14 Ch. D. 807; 49 L. J. Ch. 272.

(y) **Notice of time and place of inquiry.**—See sec. 18, *ante*.

(z) **Statement and abstract.**—The local authority may require a further abstract or evidence of title, if they think fit. Clause (22), *post*.

(a) **Apportionment.**—See the Lands Clauses Consolidation Act, 1845, secs. 116 and 119.

53 & 54 Vict.  
c. 70.

8 & 9 Vict. c. 18.

42 & 43 Vict.

c. 63, sch. (3).

Consolidation Act, 1845 (*b*), the arbitrator may determine that such part of any house, building, or manufactory as is proposed to be taken by the local authority can be taken without material damage to such house, building, or manufactory, and if he so determine may award compensation in respect of the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell and convey to the local authority such part, without the local authority being obliged to purchase the greater part or the whole of such house, building, or manufactory.

The local authority, or any person interested, if dissatisfied with a determination under this enactment, may, in manner provided with respect to appeals to a jury in respect of compensation for land by this schedule (*c*), submit the question of whether the said part can be taken without material damage, as well as the question of the proper amount of compensation, to a jury; and the notice of intention to appeal shall be given within the same time as notice of intention to appeal against the amount of compensation awarded is required to be given.

Omitted  
interests.

42 & 43 Vict.

c. 63, sch. (4).

(13) The amount of purchase money or compensation to be paid in pursuance of section one hundred and twenty-four of the Lands Clauses Consolidation Act, 1845, in respect of any estate, right, or interest in or charge affecting any of the scheduled lands which the local authority have through mistake or inadvertence failed or omitted duly to purchase or make compensation for, shall be awarded by the arbitrator and be paid, in like manner, as near as may be, as the same would have been awarded and paid if the claim of such estate, right, interest, or charge had been delivered to the arbitrator before the day fixed for the delivery of statements of claims.

If the arbitrator is satisfied that the failure or omission to purchase the said estate, right, interest, or charge, arose from any default on the part either of the claimant or of the local authority, he may direct the costs to be paid by the party so in default.

#### *Payment of Purchase Money.*

Arts. 14—24.  
See 38 & 39  
Vict. c. 36,  
sch.

(14) Within thirty days from the delivery of such statement and abstract as aforesaid to the local authority, the local authority shall, where it appears to them that any person so claiming is absolutely entitled to the lands, estate, or interest claimed by him, deliver to such person, on demand, a certificate stating the amount of the compensation to which he is entitled under the said award.

(15) Every such certificate shall be prepared by and at the cost of the local authority; and where any agreement has been entered into as to the compensation payable in respect of the interest of any person in any lands, the local authority may, where it appears to them that such person is absolutely entitled, deliver to such person a like certificate.

(16) The local authority shall, thirty days after demand, pay to the party to whom any such certificate is given, or otherwise as herein provided in the cases hereinafter mentioned, the amount of moneys specified to be payable by such certificate to the party to whom or in whose favour such certificate is given, his or her executors, administrators, or assigns.

(17) If the local authority wilfully make default in such payment as aforesaid, then the party named in such certificate shall be entitled to enter up judgment against the local authority in the High Court, for the amount of the sums specified in such certificate, in the same manner in all respects as if he had been, by warrant of attorney from the local authority, authorised to enter up judgment for the amount mentioned in the certificate, with costs, as is usual in like cases; and all moneys payable under such certificates, or to be recovered by such judgments as aforesaid, shall at law and in equity be taken as personal estate as from the time of the local authority entering on any such lands as aforesaid.

(18) When and so soon as the local authority have paid to the party to whom any such certificate as aforesaid is given, or otherwise, as herein

(*b*) **Lands Clauses Consolidation Act, 1845.**—Sec. 92 provides that no party shall be required to sell or convey a part only of any house or other building or manufactory, if such party be willing and able to sell and convey the whole thereof.

(*c*) **Appeals to a jury.**—See clauses (26) and (27), *post*.

provided, in the cases hereinafter mentioned (*d*), the amount specified to be payable by such certificate to the party to whom or in whose favour the certificate is given, his executors, administrators, or assigns, it shall be lawful for the local authority, upon obtaining such receipt as hereinafter mentioned, from time to time to enter upon any lands in respect of which such certificate is given (*e*), and thenceforth to hold the same for the estate or interest in respect of which the amount specified in such certificate was payable.

53 & 54 Vict.  
c. 70.

(19) In every case in which any moneys are paid by any local authority under this Act for such compensation as aforesaid, the party receiving such moneys shall give to the local authority a receipt for the same, and such receipt shall have the effect of a grant, release, and conveyance of all the estate and interest of such party, and of all parties claiming under or through him, in the lands in respect of which such moneys are paid, provided such receipt has an ad valorem stamp of the same amount impressed thereon in respect of the purchase moneys mentioned in such certificate as would have been necessary if such receipt had been an actual conveyance of such estate or interest, every such receipt to be prepared by and at the cost of the local authority.

(20) If it appear to the local authority, from any such statement and abstract as aforesaid, or otherwise, that the person making any such claim as aforesaid is not absolutely entitled to the lands, estate, or interest in respect of which his claim is made, or is under any disability, or if the title to such lands, estate, or interest be not satisfactorily deduced to the local authority, then and in every such case the amount to be paid by the local authority in respect of such lands, estate, or interest as aforesaid shall be paid and applied as provided by the clauses of the Lands Clauses Consolidation Act, 1845 (*f*), as amended by the Court of Chancery Funds Act, 1872 (*g*), "with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title."

(21) Where any person claiming any right or interest in any lands refuses to produce his title to the same, or where the local authority have under the provisions of part one of this Act taken possession of any lands in respect of the compensation whereof, or of any estate or interest wherein, no claim has been made within one year from the time of the local authority taking possession, or if any party to whom any such certificate has been given or tendered refuses to receive such certificate, or to accept the amount therein specified as payable to him, then and in any such case the amount payable by the local authority in respect of such lands, estate, or interest, or the amount specified in such certificate, shall be paid into the Bank of England, in manner provided by the last-mentioned clauses of the Lands Clauses Consolidation Act, 1845 (*f*), as amended by the Court of Chancery Funds Act, 1872 (*h*), and the amount so paid into the said bank shall be accordingly dealt with as by the said Act provided.

(22) Nothing herein contained shall prevent the local authority from requiring any further abstract or evidence of title respecting any lands included in any such award as aforesaid, in addition to the abstract or statement hereinbefore mentioned (*h*), if they think fit, so as the same be obtained at the cost of the local authority.

(23) If from any reason whatever the local authority does not deliver the certificate aforesaid to any party claiming to be entitled to any interest in any lands the possession whereof has been taken by the local authority as aforesaid, then the right to have a certificate according to the provisions of this Act may, at the cost and charge of the local authority, be enforced by any party or parties, by application to the High Court, in a summary way by petition, and all other

(*d*) **Cases hereinafter mentioned.**—See clauses (20) and (21), *post*.

(*e*) **Enter upon lands.**—Where the local authority are desirous of entering upon any lands before they would be entitled under this clause they may proceed under clause (24), *post*.

(*f*) **Lands Clauses Act, 1845.**—See secs. 69—80 of that Act in Cripps on the "Law of Compensation," and other works on the same subject, which is too lengthy to be dealt with here.

(*g*) **The Court of Chancery Funds Act, 1872** (35 & 36 Vict. c. 44), abolished the office of Accountant-General of the Court of Chancery, and transferred the duties and powers to the Paymaster-General. See also the Supreme Court of Judicature (Funds, &c.) Act, 1883 (46 & 47 Vict. c. 29).

(*h*) **Abstract hereinbefore mentioned.**—See clause (10), *ante*.



53 & 54 Vict.  
c. 70.

rights and interests of any party or parties arising under the provisions of this Act may be in like manner enforced against the local authority by such application as aforesaid.

*Entry on Lands on making Deposit.*

(24) Where the local authority are desirous, for the purposes of their works, of entering upon any lands before they would be entitled to enter thereon under the provisions hereinbefore contained (*i*), it shall be lawful for the local authority, at any time after the arbitrator has framed his award, upon depositing in the Bank of England such sum as the arbitrator may certify to be in his opinion the proper amount to be so deposited in respect of any lands authorised to be purchased or taken by the local authority, and mentioned in such award, to enter upon and use such lands for the purposes of the improvement scheme of the local authority: and the arbitrator shall, upon the request of the local authority at any time after he has framed such award, certify under his hand the sum which, in his opinion, should be so deposited by the local authority in respect of any lands mentioned in such award before they enter upon and use the same as aforesaid, and the sum to be so certified shall be the sum or the amount of the several sums set forth in such award as the sum or sums to be paid by the local authority in respect of such lands, or such greater amount as to the arbitrator, under the circumstances of the case, may seem proper; and, notwithstanding such entry as aforesaid, all proceedings for and in relation to the completion of the award, the delivery of certificates, and other proceedings under part one of this Act, shall be had, and payments made, as if such entry and deposit had not been made;

Provided that the local authority shall, where they enter upon any lands by virtue of this present provision, pay interest at the rate of five pounds per centum per annum upon the compensation money payable by them in respect of any lands so entered upon, from the time of their entry until the time of the payment of such money and interest to the party entitled thereto, or where, under the provisions of part one of this Act, such compensation is required to be paid into the Bank of England (*k*), then until the same, with such interest, is paid into such bank accordingly; and where under this provision interest is payable on any compensation money the certificate to be delivered by the local authority in respect thereof shall specify that interest is so payable, and the same shall be recoverable in like manner as the principal money mentioned in such certificate.

(25) The money so deposited as last aforesaid shall be paid into the Bank of England to such account as may from time to time be directed by any regulation or Act for the time being in force in relation to moneys deposited in the bank in similar cases, or to such account as may be directed by any order of the High Court, and remain in the bank by way of security to the parties interested in the lands which have been so entered upon for the payment of the money to become payable by the local authority in respect thereof under the award of the arbitrator (*l*); and the money so deposited may, on the application by petition of the local authority, be ordered to be invested in bank annuities or Government securities, and accumulated: and upon such payment as aforesaid by the local authority it shall be lawful for the High Court, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the local authority, or, in default of such payment as aforesaid by the local authority, it shall be lawful for the said court to order the same to be applied in such manner as it thinks fit for the benefit of the parties for whose security the same shall so have been deposited.

*Appeal.*

(26) In the following cases, namely—

(a) Where the party named in any certificate issued under the provisions

(*i*) **Provisions hereinbefore contained.**—See clause (18), *ante*.

(*k*) **Paid into Bank of England.**—See clauses (20) and (21), *ante*.

(*l*) **Payable under award of arbitrator.**—The money does not become payable, and the ownership of the property does not pass, until the arbitrator has made his final award. *Barnet v. Met. Bd. Wks.*, 46 J. P. 469; 46 L. T. (N. S.) 384.

See 45 & 46  
Vict. c. 54,  
sch. (G).

hereinbefore contained (*m*) of the amount of the compensation ascertained by any award under part one of this Act (or any party claiming under the party so named) is dissatisfied with the amount in such certificate certified to be payable, and such amount exceeds one thousand pounds, and

53 & 54 Vict.  
c. 70.

(b) Where any party claiming any interest in any moneys so paid into court as aforesaid (*n*) is dissatisfied with the amount of the price or compensation in respect of which such moneys are paid into court, and such amount exceeds one thousand pounds; also

(c) Where the local authority is dissatisfied with the amount of compensation which the arbitrator appointed under the provisions of part one of this Act has awarded to be paid by the local authority to any person in respect of any estate or interest in lands, and such amount exceed the sum of one thousand pounds:

the party dissatisfied may, upon obtaining the leave of the High Court, which leave may be granted by such court or any judge thereof at chambers (*o*) in a summary manner, and upon being satisfied that a failure of justice will take place if the leave is not granted, submit the question of the proper amount of compensation to a jury (*p*), provided that such party give notice in writing to the other party of their intention to appeal within ten days after the cause of appeal has arisen.

The cause of appeal shall be deemed to have arisen—

(1) Where a certificate has been issued as aforesaid, at the date of the issue of the certificate;

(2) Where moneys have been paid into court, at the date of the payment into court;

(3) Where the local authority appeals, at the date of the making of the award.

(27) Where a notice has been given under part one of this Act of an appeal to a jury in respect of compensation for land, or any interest in land, a question of disputed compensation required to be determined by the verdict of a jury shall be deemed to have arisen within the meaning of the Lands Clauses Consolidation Act, 1845, and all the provisions of that Act contained in sections thirty-eight to fifty-seven, both inclusive, shall be deemed to apply, except sections forty-seven and fifty-one (*q*): Provided also, that—

8 & 9 Vict.  
c. 18.

(1) Where the local authority appeals that authority shall be deemed to be the plaintiff and the party entitled to compensation to be the defendant; and

(2) Where the party claiming compensation appeals, then, in case the verdict of the jury is for a sum exceeding the award of the arbitrator, the local authority shall pay to such party the costs of the trial, such costs to be taxed and ascertained in the same manner as costs are by law ascertained on the trial of issues tried in the High Court; but in case the verdict of the jury is for a sum not exceeding the award of the arbitrator, the party appealing shall pay to the local authority the costs of the trial to be taxed and ascertained in manner aforesaid.

(3) Where the local authority is the appellant—

(a) Notwithstanding the verdict of the jury may be for a less sum than that awarded by the arbitrator, the local authority shall pay to the other party such sum not exceeding twenty pounds for the costs of the trial as the sheriff or other officer before whom the same is tried shall direct; and

(b) In case the verdict of the jury is for a sum equal to or exceeding the

(*m*) **Certificate issued.**—See clause (14), *ante*.

(*n*) **Moneys paid into court.**—See clauses (20) to (24), *ante*.

(*o*) **Leave to appeal.**—No appeal lies either to the Divisional Court or to the Court of Appeal from the decision of a judge at chambers refusing leave to appeal. *Stevenson, Ex parte* (1892), 1 Q. B. 609; 61 L. J. Q. B. 492. The jurisdiction of the court is not limited to the consideration of a point of law; and if satisfied that the amount of the award is manifestly improper, they may interfere. *Larmuth, Ex parte*, 10 T. L. R. 225.

(*p*) **Amount of compensation.**—Where under the corresponding provisions of the repealed Artizans and Labourers Dwellings Act, 1875 (38 & 39 Vict. c. 36), a verdict for a larger sum than that paid into court was given by a jury, interest at 4 per cent. was held to be payable on the difference between the two sums from the date of the payment of the smaller sum to the date of the payment of the difference into court. *Shaw and the Birmingham Corporation, In re*, 27 Ch. D. 614; 54 L. J. Ch. 51.

(*q*) **Lands Clauses Act, 1845.**—See note to rule 20, *ante*.

53 & 54 Vict.  
c. 70.

award of the arbitrator, the local authority shall pay to the other party the costs of the trial, such costs to be taxed and ascertained in manner aforesaid.

- (c) The amount of compensation awarded by the arbitrator shall not be communicated to the jury, but they shall be required to make an independent assessment of the amount of compensation to which the party claiming compensation is entitled.

*Costs of Arbitration.*

See 45 & 46  
Vict. c. 54,  
sch. (H).

**28.** The salary or remuneration, travelling, and other expenses of the arbitrator, and all costs, charges, and expenses (if any) which may be incurred by the confirming authority in carrying the provisions of part one of this Act (*r*) into execution, shall, after the amount thereof shall have been certified under this article, be paid by the local authority; and the amount of such costs, charges, and expenses shall from time to time be certified by the confirming authority after first hearing any objections that may be made to the reasonableness of any such costs, charges, and expenses by or on behalf of the local authority; and every certificate of the said confirming authority certifying the amount of such costs, charges, and expenses shall be taken as proof in all proceedings at law or in equity of the amount of such respective costs, charges, and expenses, and the amount so certified shall be a debt due from the local authority to the Crown, and shall be recoverable accordingly.

Further, any such certificate may be made a rule of a superior court on the application of any party named therein, and may be enforced accordingly.

(29)—(1) It shall be lawful for the arbitrator, where he thinks fit, upon the request of any party by whom any claim has been made before him, to certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the local authority;

Provided that—

See 45 & 46  
Vict. c. 54,  
sch. (I).

- (a) The arbitrator shall not be required to certify the amount of costs in any case where he considers such costs are not properly payable by the local authority;
- (b) The arbitrator shall not be required to certify the amount of costs incurred by any party in relation to the arbitration, in any case where he considers that such party neglected, after due notice from the local authority, to deliver to that authority a statement in writing within such time, and containing such particulars respecting the compensation claimed, as would have enabled the local authority to make a proper offer of compensation to such party before the appointment of the arbitrator.
- (c) No certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the local authority in respect of the claim before the appointment of the arbitrator.
- (2) If within seven days after (*s*) demand the amount certified be not paid to the party entitled to receive the same, such amount shall be recoverable as a debt from the local authority with interest at the rate of five per cent. per annum for any time during which the same remains unpaid after such seven days as aforesaid.

*Miscellaneous.*

(30) The arbitrator may call for the production of any documents in the possession or power of the local authority, or of any party making any claim under the provisions of part one of this Act, which such arbitrator may think necessary for determining any question or matter to be determined by him under part one of this Act, and may examine any such party and his witnesses, and the witnesses for the local authority, on oath, and administer the oaths necessary for that purpose.

(31) If any arbitrator appointed in pursuance of part one of this Act die, or refuse, decline, or become incapable to act, the confirming authority may

(*r*) **Costs of confirming authority.**—As to the costs, &c., of the confirming authority in relation to any provisional order under part i., see sec. 8 (8), *ante*.

(*s*) **Within seven days after,** i.e., exclusive of the date of demand. *Robinson v. Waddington; Radcliffe v. Bartholomew, ante*, p. 959.



appoint an arbitrator in his place, who shall have the same powers and authorities as the arbitrator first appointed; and upon the appointment of any arbitrator in the place of an arbitrator dying, or refusing, declining, or becoming incapable to act, all the documents relating to the matter of the arbitration, which were in the possession of such arbitrator shall be delivered to the arbitrator appointed in his place, and the local authority shall publish notice of such appointment in the London Gazette.

53 & 54 Vict.  
c. 70.

(32) All notices required by this schedule to be published shall be published in some one and the same newspaper circulating within the jurisdiction of the local authority, and where no other form of service is prescribed all notices required to be served or given by the local authority under this schedule or otherwise upon any persons interested in or entitled to sell lands, shall be served in manner in which notices of lands proposed to be taken compulsorily for the purpose of an improvement scheme are directed by part one of this Act (*t*) to be served upon owners or reputed owners, lessees or reputed lessees, and occupiers.

33—34. [*Application of schedule to Scotland.*]

35. [*Application of schedule to Ireland.*]

### THIRD SCHEDULE.

ENACTMENTS APPLIED for the purpose of PROCEEDINGS for CLOSING PREMISES in ENGLAND, SCOTLAND, and IRELAND respectively. Sections 29, 32.

### ENGLAND.

*Administrative County of London.*

SANITARY ACT, 1866 (section 21).

29 & 30 Vict.  
c. 90.

NUISANCES REMOVAL ACT, 1855 (sections 8, 12, and 13).

18 & 19 Vict.  
c. 121.

SANITARY ACT, 1866 (section 21) (*u*).

s. 21. The nuisance authority \* \* shall, previous to taking proceedings before a justice under the twelfth section of the Nuisances Removal Act, 1855, serve a notice \* \* \* on the owner or occupier of the premises on which the nuisance arises, to abate the same, and for that purpose to execute such works, and to do all such things as may be necessary within a time to be specified in the notice: Provided,

As to proceedings of nuisance authority under s. 12 of 18 & 19 Vict. c. 121.

First, that where the nuisance arises from the want or defective construction of any structural convenience, or where there is no occupier of the premises, notice under this section shall be served on the owner:

\* \* \* \*

NUISANCES REMOVAL ACT, 1855 (sections 8, 12, and 13) (*x*).

s. 8. The word nuisances under this Act shall include—

Any premises in such a state as to be a nuisance or injurious to health

\* \* \* \*

s. 12. In any case where a nuisance is so ascertained by the local authority to exist, or where the nuisance in their opinion did exist at the time when the notice was given, and, although the same may have been since removed or discontinued, is, in their opinion, likely to recur or to be repeated on the same

Proceedings by local authority before justices in case of nuisances likely to recur, &c.

(*t*) As directed by part i.—See sec. 7 (*b*), *ante*.

(*u*) Sanitary Act, 1866.—This Act is repealed (except sec. 41) by the Pub. Hlth. (Lon.) Act, 1891, *ante*, vol. i., and the present enactment must be read as if the corresponding provisions of that Act were herein referred to instead of such repealed Act. *Id.* sec. 142. For the substituted provisions, see sec. 4 of that Act and notes thereto.

(*x*) Nuisances Removal Act, 1855.—This Act is repealed by the Pub. Hlth. (London) Act, 1891, *ante*, vol. i., and the present enactment must be read as if the corresponding provisions of that Act were herein referred to instead of such repealed Act. *Id.* sec. 142. For the substituted provisions, see secs. 2 (1) (*a*) and 5 of that Act and notes thereto.

53 & 54 Vict.  
c. 70.

premises or any part thereof, they shall cause complaint thereof to be made before a justice of the peace, and such justice shall thereupon issue a summons requiring \* \* \* the owner or occupier of the premises on which the nuisance arises, to appear before any two justices, in petty sessions assembled, at their usual place of meeting, who shall proceed to inquire into the said complaint;

s. 13. \* \* \* \* \* and if the nuisance proved to exist be such as to render a house or building, in the judgment of the justices, unfit for human habitation, they may prohibit the using thereof for that purpose until it is rendered fit for that purpose in the judgment of the justices, and on their being satisfied that it has been rendered fit for such purpose, they may determine their previous order by another declaring such house habitable from the date of which other order such house may be let or inhabited.

*Elsewhere than London.*

\* \* \* \* \*

SCOTLAND.

\* \* \* \* \*

IRELAND.

\* \* \* \* \*

FOURTH SCHEDULE.

FORMS.

FORM A.

Section 32.

*Form of Notice requiring Premises to be made fit for Habitation.*

To [person causing the premises to be unfit for habitation, or owner or occupier of the premises, as the case may be].

Take notice that under the provisions of the Public Health Act, 1875, and the Housing of the Working Classes Act, 1890, the [describe the local authority], being satisfied that the following premises, that is to say [describe premises or place where the nuisance exists], are in a state so dangerous or injurious to health as to be unfit for human habitation, do hereby require you within from the service of this notice to make the said premises fit for human habitation.

If you make default in complying with the requisitions of this notice proceedings will be taken before a court of summary jurisdiction for prohibiting the use of the premises for human habitation.

Dated this            day            18 .

Signature of officer }  
of local authority }

FORM B.

*Form of Summons for Closing Order.*

To the owner or occupier of [describe premises], situate at [insert such a description as may be sufficient to identify the premises].

You are required to appear before [describe the court of summary jurisdiction] at the petty sessions [or court] of County of [or borough] of           , or district of           , or as the case may be] to wit. } holden at            on the            day of            next, at the hour of            in the            noon, to answer the complaint this day made to me by            that the premises above-mentioned are used as a dwelling-house and are in a state so dangerous or injurious to health as to be unfit for human habitation.

Given under my hand and seal this            day of            18 .

## FORM C.

53 & 54 Vict.  
c. 70.*Form of Closing Order.*

To the owner [or occupier] of [describe the premises] situated [give such description as may be sufficient to identify the premises].

County of [or borough, &c. of] } WHEREAS on the day of  
 district of } complaint was made before Esquire, one of  
 or as the case may be. } Her Majesty's justices of the peace acting in and for the  
 county [or other jurisdiction] stated in the margin [or as  
 the case may be], by that certain premises  
 situated at in the district under the Public Health Act, 1875,  
 of [describe the local authority], were in a state so dangerous or injurious to  
 health as to be unfit for human habitation :

And whereas the owner [or occupier] within the meaning of  
 the said Public Health Act, 1875, hath this day appeared before us [(or me)  
 describing the court], to answer the matter of the said complaint [or in case the  
 party charged do not appear, say], and whereas it hath been this day proved to  
 our (or my) satisfaction that a true copy of a summons requiring the owner [or  
 occupier] of the said premises [or the said A.B.] to appear this day before us [or  
 me] hath been duly served according to the said Act and  
 the Housing of the Working Classes Act, 1890 :

Now on proof here had before us [or me] that the said premises are in a state  
 so dangerous or injurious to health as to be unfit for human habitation, we [or  
 I], in pursuance of the said Acts, do prohibit the using of the premises for the  
 purpose of human habitation until in our [or my] judgment they are rendered  
 fit for that purpose.

Given under the hands and seals of us [or the hand and seal of me, describing  
 the court].

This day of 18 .  
 J.S. (L.S.)  
 J.P. (L.S.)

## FIFTH SCHEDULE.

## FORM MARKED A.

Section 36.

*The Housing of the Working Classes Act, 1894.*

County of  
 Parish of  
 No.

*Charging Order.*

The being the local authority under the above-mentioned Act, do, by this order under their hands and seal, charge the inheritance or fee of the premises mentioned in the schedule hereto with the payment to of the sum of pounds payable yearly on the day of for the term of years, and being in consideration of an expenditure of pounds incurred by him in respect of the said premises. Insert description of local authority.

## FORM MARKED B.

*Form of Assignment of Charge. To be endorsed on Charging Order.*

Section 37.

Dated the day of  
 I, the within-named in pursuance  
 of the Housing of the Working Classes Act, 1890, and in consideration of  
 pounds this day paid to me, hereby assign to  
 the within-mentioned charge. Insert description of premises charged.  
 (Signed)



53 & 54 Vict.  
c. 70.

Section 62.

## SIXTH SCHEDULE.

BYELAWS TO BE MADE IN ALL CASES (EXCEPT WHERE A LODGING HOUSE IS USED AS A SEPARATE DWELLING).

For securing that the lodging houses shall be under the management and control of the officers, servants, or others appointed or employed in that behalf by the local authority.

For securing the due separation at night of men and boys above eight years old from women and girls.

For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour and nuisances.

For determining the duties of the officers, servants, and others appointed by the local authority.

## SEVENTH SCHEDULE.

Section 102.

## ENACTMENTS REPEALED.

| Session and Chapter.         | Short Title.                                                                                                                  | Extent of Repeal.                                                                                                                           |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| 14 & 15 Vict. c. 34 . . . .  | The Labouring Classes Lodging Houses Act, 1851.                                                                               | The whole Act.                                                                                                                              |
| * * . . . .                  | * * * *                                                                                                                       | *                                                                                                                                           |
| 29 & 30 Vict. c. 28 . . . .  | The Labouring Classes Dwelling Houses Act, 1866.                                                                              | The whole Act.                                                                                                                              |
| * * . . . .                  | * * * *                                                                                                                       | *                                                                                                                                           |
| 30 & 31 Vict. c. 28 . . . .  | The Labouring Classes Dwelling Houses Act, 1867.                                                                              | The whole Act.                                                                                                                              |
| 31 & 32 Vict. c. 130 . . . . | The Artizans and Labourers Dwellings Act, 1868.                                                                               | The whole Act.                                                                                                                              |
| 38 & 39 Vict. c. 36 . . . .  | The Artizans and Labourers Dwellings Improvement Act, 1875.                                                                   | The whole Act.                                                                                                                              |
| * * . . . .                  | * * * *                                                                                                                       | *                                                                                                                                           |
| 42 & 43 Vict. c. 63 . . . .  | The Artizans and Labourers Dwellings Improvement Act, 1879.                                                                   | The whole Act.                                                                                                                              |
| 42 & 43 Vict. c. 64 . . . .  | The Artizans and Labourers Dwelling Act (1868) Amendment Act, 1879.                                                           | The whole Act.                                                                                                                              |
| 42 & 43 Vict. c. 77 . . . .  | The Public Works Loans Act, 1879.                                                                                             | Section six.                                                                                                                                |
| * * . . . .                  | * * * *                                                                                                                       | *                                                                                                                                           |
| 43 Vict. c. 8 . . . . .      | An Act to explain and amend the twenty-second section of the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879. | The whole Act.                                                                                                                              |
| 45 & 46 Vict. c. 54 . . . .  | The Artizans Dwellings Act, 1882.                                                                                             | The whole Act.                                                                                                                              |
| 48 & 49 Vict. c. 72 . . . .  | The Housing of the Working Classes Act, 1885.                                                                                 | The whole Act except sections three and seven to nine, and except section ten so far as it relates to byelaws authorised by those sections. |

## PUBLIC HEALTH ACT, 1875.

**38 & 39 Vict. c. 55.** An Act for consolidating and amending the Acts relating to Public Health in England. [11th August, 1875]

\* \* \* \* \*

## PURCHASE OF LANDS (y).

**175.** Any local authority may for the purposes and subject to the provisions of this Act purchase or take on lease, sell or exchange any lands, whether situated within or without their district; they may also buy up any water-mill dam or weir which interferes with the proper drainage of or the supply of water to their district. Power to purchase lands.

Any lands acquired by a local authority in pursuance of any powers in this Act contained and not required for the purpose for which they were required shall (unless the Local Government Board otherwise direct) be sold at the best price that can be gotten for the same, and the proceeds of such sale shall be applied towards discharge, by means of a sinking fund or otherwise, of any principal moneys which have been borrowed by such authority on the security of the fund or rate applicable by them for the general purposes of this Act, or if no such principal moneys are outstanding shall be carried to the account of such fund or rate.

**176.** With respect to the purchase of lands by a local authority for the purposes of this Act, the following regulations shall be observed; that is to say— Regulations as to purchase of land.

(1) The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, shall be incorporated with this Act, except the provisions relating to access to the special Act, and except section one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845:

(2) The local authority, before putting in force any of the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, shall

Publish once at the least in each of three consecutive weeks in the month of November, in some local newspaper circulated in their district, an advertisement describing shortly the nature of the undertaking in respect of which the lands are proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands that they require; and shall further Serve a notice (z) in the month of December on every owner or reputed owner, lessee or reputed lessee, and occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such lands:

(3) On compliance with the provisions of this section with respect to advertisements and notices, the local authority may, if they think fit, present a petition under their seal to the Local Government Board. The petition shall state the lands intended to be taken, and the purposes for which they are required, and the names of the owners, lessees, and occupiers of lands who have assented, dissented, or are neuter in respect of the taking such lands, or who have returned no answer to the notice; it shall pray that the local authority may, with reference to such lands, be allowed to put in force the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Local Government Board requires:

(y) **Purchase of lands.**—Secs. 175—178 are applied by the Housing of the Working Classes Act, 1890, sec. 57 (1), to the acquisition of land by a local authority for the purposes of part iii. of that Act.

Secs. 176—178 are applied by the Loc. Govt. Act, 1888, sec. 65 (2), *ante*, vol. i., to the purchase, lease, or exchange of lands by the county council under that section.

Sec. 176 is applied, with modifications, by sec. 33 (3) of the Diseases of Animals Act, *ante*, to the acquisition of land by a local authority for the purposes of that Act.

(z) **Serve a notice.**—Service of a notice under this section does not bind a local authority to proceed. Their omission, therefore, to take the lands specified in such a notice gives the owner of the land no right of action against them, notwithstanding the confirmation of a provisional order empowering them to take such lands. *Burges v. Bristol Urban Sanitary Authority*, 50 J. P. 455; 2 T. L. R. 719.

38 & 39 Vict.  
c. 55.

(4) On the receipt of such petition and on due proof of the proper advertisements having been published and notices served the Local Government Board shall take such petition into consideration, and may either dismiss the same, or direct a local inquiry as to the propriety of assenting to the prayer of such petition; but until such inquiry has been made no provisional order shall be made affecting any lands without the consent of the owners, lessees, and occupiers thereof:

(5) After the completion of such inquiry the Local Government Board may, by provisional order, empower the local authority to put in force, with reference to the lands referred to in such order, the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as the Board may think fit, and it shall be the duty of the local authority to serve a copy of any order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served:

Provided that the notices by this section required to be given in the months of November and December may be given in the months of September and October or of October and November, but in either of such last-mentioned cases an inquiry preliminary to the provisional order to which such notices refer shall not be held until the expiration of one month from the last day of the second of the two months in which the notices are given; and any notices or orders by this section required to be served on a number of persons having any right in, over, or on lands in common may be served on any three or more of such persons on behalf of all such persons.

Power to let  
lands.

**177.** Any local authority may, with the consent of the Local Government Board, let for any term any lands which they may possess, as and when they can conveniently spare the same.

Provision for  
lands belonging  
to the Duchy  
of Lancaster.

**178.** The Chancellor and Council of the Duchy of Lancaster for the time being may, if they think fit (but subject and without prejudice to the rights of any lessee, tenant, or occupier), from time to time contract with any local authority for the sale of, and may (subject as aforesaid) absolutely sell and dispose of, for such sum as to the said chancellor and council may appear sufficient consideration, the whole or any part of any lands belonging to Her Majesty, her heirs or successors, in right of the said duchy, or any right, interest, or easement in, through, over, or on any such lands which for the purposes of this Act such local authority from time to time deem it expedient to purchase; and on payment of the purchase money, as provided by the Duchy of Lancaster Lands Act, 1855, the said chancellor and council may grant and assure to the said authority, under the seal of the said duchy, in the name of Her Majesty, her heirs or successors, the subject of such contract or sale, and such money shall be dealt with as if such subject had been sold under the authority of the Duchy of Lancaster Lands Act, 1855.

\* \* \* \* \*

#### *Private Improvement Rate(a).*

Power to  
make private  
improvement  
rates.

**213.** Whenever an urban authority have incurred or become liable to any expenses which by this Act are or by such authority may be declared to be private improvement expenses, such authority may, if they think fit, make and levy on the occupier of the premises in respect of which the expenses have been incurred, in addition to all other rates, a rate or rates to be called private improvement rates, of such amount as will be sufficient to discharge such expenses, together with interest thereon at a rate not exceeding five pounds per centum per annum, in such period not exceeding thirty years as the urban authority may in each case determine.

Provided that whenever any premises in respect of which any private improvement rate is made become unoccupied before the expiration of the period for which the rate was made, or before the same is fully paid off, such rate shall become a charge on and be paid by the owner for the time being of the premises so long as the same continue to be unoccupied.

(a) **Private Improvement Rate.**—The provisions of this Act relating to private improvement expenses and to private improvement rates, are applied by the Housing of the Working Classes Act, 1890, sec. 38 (8), *ante*, to the provisions of that section relating to the removal of obstructive buildings.



**214.** Where the occupier by whom any private improvement rate is paid holds the premises in respect of which the rate is made at a rent not less than the rackrent, he shall be entitled to deduct three fourths of the amount paid by him on account of such rate from the rent payable by him to his landlord, and if he hold at a rent less than the rackrent he shall be entitled to deduct from the rent so payable by him such proportion of three fourths of the rate as his rent bears to the rackrent; and if the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made, and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof.

Provided that nothing in this section shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

**215.** At any time before the expiration of the period for which any private improvement rate is made, the owner or occupier of the premises assessed thereto may redeem the same, by paying to the urban authority the expenses in respect of which the rate was made, or such part thereof as may not have been defrayed by sums already levied in respect of the same:

Provided that money paid in redemption of any private improvement rate shall not be applied by the urban authority otherwise than in defraying expenses incurred by them in works of private improvement or in discharging the principal of any moneys borrowed by them to meet those expenses, whether by means of a sinking fund or otherwise.

\* \* \* \* \*

**222.** All rates made or collected under this Act shall be published in the same manner as poor rates, and shall commence and be payable at such time or times, and shall be made in such manner and form, and be collected by such persons, and either together or separately, or with any other rate or tax, as the urban authority may from time to time appoint: Provided that no publication shall be required of any private improvement rate.

**223.** The production of the books purporting to contain any rate or assessment made under this Act shall, without any other evidence whatever, be received as *prima facie* evidence of the making and validity of the rates mentioned therein.

\* \* \* \* \*

**225.** An urban authority may reduce or remit the payment of any rate on account of the poverty of any person liable to the payment thereof.

\* \* \* \* \*

**234.** . . . Where any urban authority borrow any money for the purpose of defraying private improvement expenses, . . . it shall be the duty of such authority, as between the ratepayers of the district, to make good, so far as they can, the money so borrowed, as occasion requires . . . out of private improvement rates . . .

\* \* \* \* \*

**240.** Where any person has advanced money for any expenses which by this Act are, or by the local authority may be declared to be private improvement expenses, the local authority, on being satisfied by the report of their surveyor or otherwise that the money advanced by such person has been duly expended, may issue a grant in the form in schedule IV. to this Act to such person of a yearly rentcharge issuable out of the premises, in respect whereof such advance has been made, or out of such part thereof, to be specified in such grant, as the local authority may think proper and sufficient.

Such rentcharge shall be personal estate, and shall begin to accrue from the day of completion of the works on which the money advanced has been expended, and shall be payable by equal half-yearly payments during a term not exceeding thirty years, in such manner that the whole of the sum advanced, with the costs of preparing the said grant, together with interest thereon respectively, at a

38 & 39 Vict.  
c. 55.

Proportion of private improvement rate may be deducted from rent.

Redemption of private improvement rates.

Publication and collection of rates.

Evidence of rates.

Power to reduce or remit rates.

Money borrowed to be made good out of private improvement rate.

Rentcharge may be granted in respect of advances made for private improvements.

38 & 39 Vict.  
c. 55.

rate not exceeding six pounds per centum per annum on the sum from time to time remaining unpaid, shall be repaid at the end of the said term.

Recovery of  
expenses by  
local authority  
from owners.

\* \* \* \* \*

**257.** Where any local authority have incurred expenses for the repayment whereof the owner of the premises for or in respect of which the same are incurred is made liable under this Act or by any agreement with the local authority, such expenses may be recovered, together with interest at a rate not exceeding five pounds per centum per annum, from the date of service of a demand for the same till payment thereof, from any person who is the owner of such premises when the works are completed for which such expenses have been incurred, and until recovery of such expenses and interest the same shall be a charge on the premises in respect of which they were incurred. In all summary proceedings by a local authority for the recovery of expenses incurred by them in works of private improvement, the time within which such proceedings may be taken shall be reckoned from the date of the service of notice of demand.

Where such expenses have been settled and apportioned by the surveyor of the local authority as payable by such owner, such apportionment shall be binding and conclusive on such owner, unless within three months from service of notice on him by the local authority or their surveyor of the amount settled by the surveyor to be due from such owner, he shall by written notice dispute the same.

The local authority may, by order, declare any such expenses to be payable by annual instalments within a period not exceeding thirty years, with interest at a rate not exceeding five pounds per centum per annum, until the whole amount is paid; and any such instalments and interest, or any part thereof, may be recovered in a summary manner from the owner or occupier for the time being of such premises, and may be deducted from the rent of such premises, in the same proportions as are allowed in the case of private improvement rates under this Act.

Demands  
below £50 may  
be recovered in  
county courts.

\* \* \* \* \*

**261.** Proceedings for the recovery of demands below fifty pounds, which local authorities are empowered to recover in a summary manner, may, at the option of the local authority, be taken in the county court as if such demands were debts within the cognizance of such courts.

Appeal in  
certain cases to  
Local Govern-  
ment Board.

\* \* \* \* \*

**268.** Where any person deems himself aggrieved by the decision of the local authority in any case in which the local authority are empowered to recover in a summary manner any expenses incurred by them, or to declare such expenses to be private improvement expenses, he may, within twenty-one days after notice of such decision, address a memorial to the Local Government Board, stating the grounds of his complaint, and shall deliver a copy thereof to the local authority: the Local Government Board may make such order in the matter as to the said Board may seem equitable, and the order so made shall be binding and conclusive on all parties.

Any proceedings that may have been commenced for the recovery of such expenses by the local authority shall, on the delivery to them of such copy as aforesaid, be stayed; and the Local Government Board may, if it thinks fit, by its order, direct the local authority to pay to the person so proceeded against such sum as the said Board may consider to be a just compensation for the loss damage or grievance thereby sustained by him.

\* \* \* \* \*

#### FORM K.

##### *Form of Rentcharge.*

BY virtue of the Public Health Act, 1875, we the  
do hereby declare and absolutely order that the inheritance of the [dwelling-house  
shop lands and premises, *as the case may be*], situated in street,  
in the parish of within the said district, and now in the occupa-  
tion of shall be absolutely charged with the sum of  
pounds, paid by of for the improvement by

drainage and water supply [*as the case may be*] of the same dwelling-house shop lands and premises [*as the case may be*], together with interest for the same from the date hereof at \_\_\_\_\_ pounds per centum per annum, until full payment thereof; and also all costs incurred by the said \_\_\_\_\_ his executors administrators or assigns, under this security, shall be fully paid and satisfied: And we hereby further declare that the said principal and interest moneys shall be paid and payable by the owner or occupier of the said premises to the said \_\_\_\_\_ his executors administrators and assigns, in manner following; (that is to say,) the interest on such principal sum of \_\_\_\_\_ pounds, or on so much thereof as shall from time to time remain due and payable under this order shall be paid and payable by equal half-yearly payments whilst payable on the \_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_ in every year, the first payment thereof to be made on the \_\_\_\_\_ day \_\_\_\_\_ next, and such principal sum of \_\_\_\_\_ pounds shall be paid and payable by \_\_\_\_\_ equal annual instalments on the \_\_\_\_\_ day of \_\_\_\_\_ in each of the next succeeding \_\_\_\_\_ years, towards the discharge of the same principal sum, until the whole shall be fully satisfied and discharged.  
 [To be sealed with the common seal of the local authority.]

38 & 39 Vict.  
c. 55.

### WORKING CLASSES DWELLINGS ACT, 1890.

**53 & 54 Vict. c. 16.** An Act to facilitate Gifts of Land for Dwellings for the Working Classes in Populous Places. [25th July, 1890]

1. Parts one and two of the Mortmain and Charitable Uses Act, 1888 (*b*) and section sixteen of the Act of the session held in the seventh and eighth years of Her present Majesty, chapter ninety-seven, intituled "An Act for the more effectual application of charitable donations and bequests in Ireland," shall not apply to any assurance, by deed or will, of land, or of personal estate to be laid out in land, for the purpose of providing dwellings for the working classes in any populous place.

Provided as follows:—

- (i) The quantity of land which may be assured by will under this section shall not exceed five acres; and
- (ii) The deed or will containing the assurance must, within six months (*c*) in the case of a deed after the execution thereof, or in the case of a will after the probate thereof, be enrolled in the books of the Charity Commissioners, if the land is situate in England or Wales, and the deed containing the assurance must, within six months after the execution thereof, be registered in the office for registering deeds in the city of Dublin, if the land is situate in Ireland.

For the purposes of this Act, the expression "populous place" means the

Exemption  
from 51 & 52  
Vict. c. 42.  
Parts i., ii.,  
and 7 & 8 Vict.  
c. 97, s. 16, of  
gifts for  
working classes  
dwellings.

(*b*) **Mortmain, &c. Act, 1888.**—Part i. of this Act requires that land shall not be assured to or for the benefit of, or acquired by or on behalf of, any corporation in mortmain otherwise than under the authority of a licence from the Crown, or of a statute for the time being in force, and provides for forfeiture of such land to the Crown or mesne lord. Part ii. provides restrictions and conditions under which assurances may be made to charitable uses. Part iii. contains exemptions as to assurances for a public park, elementary school, or public museum, similar to the exemption contained in the present Act as to dwellings for the working classes. The Act is amended by the Mortmain and Charitable Uses Act, 1891, which provides that where land is assured by will to or for the benefit of any charitable use it shall be sold within one year from the death of the testator, or such extended period as may be determined by the High Court or a judge, or by the Charity Commissioners. And the Act is further amended by the Mortmain and Charitable Uses Act Amend. Act, 1892 (55 & 56 Vict. c. 11), which extends the exemptions contained in part ii. to assurances by deed of land to any local authority for the purposes for which such authority is empowered by any Act of Parliament to acquire land.

(*c*) **Within six months after.**—See note to sec. 34 (1), *ante*, for the meaning of this expression.



- 53 & 54 Vict. administrative county of London, any municipal borough, any urban sanitary  
c. 16. district, and any other place having a dense population of an urban character.
- Application of  
Act. **2.** This Act shall extend to any assurance by deed made within twelve  
months before the passing of this Act by a person alive at that passing as if it  
had been made after the passing, except that the assurance shall be enrolled or  
registered as aforesaid within six months after the passing of this Act.
- Short title and  
construction. **3.**—(1) This Act may be cited as the Working Classes Dwellings Act, 1890.  
(2) Expressions used in this Act shall have the same meaning as in the
- 51 & 52 Vict. Mortmain and Charitable Uses Act, 1888.  
c. 42.

## INFANT LIFE PROTECTION.

INFANT LIFE PROTECTION ACT, 1897 (*a*).

**60 & 61 Vict. c. 57.** An Act to amend the Law for the better Protection of Infant Life. [6th August, 1897]

1. This Act may be cited as the Infant Life Protection Act, 1897.

Short title.

2.—(1) Any person retaining or receiving for hire or reward in that behalf more than one infant under the age of five years for the purpose of nursing or maintaining such infants apart from their parents for a longer period than forty-eight hours, shall within the said forty-eight hours give notice thereof to the local authority.

Persons retaining or receiving for hire infants for the purpose of maintenance to give notice thereof.

(2) Such notice shall truly state the name, age, and sex of such infants, the name of the person receiving the infants, and the dwelling within which such infants are being kept, and the name and address of the person or persons from whom the infants have been received.

(3) If any such infant is removed from the care of the person who has received the infant for the purpose aforesaid, such person shall forthwith give to the local authority notice of the removal, and of the name and address of the person to whose care the infant has been transferred.

(4) If any person who has retained or received any infant as aforesaid omits to give the said notices, or any of them, or knowingly or wilfully makes or causes or procures any other person to make any false statement in any such notice, he shall be guilty of an offence against this Act.

3.—(1) It shall be the duty of every local authority to provide for the execution of this Act within its district, and for that purpose it shall from time to time make enquiry whether there are any persons residing therein who retain or receive infants for hire or reward within the provisions of the preceding section.

Appointment and powers of inspectors, &c.

(2) A local authority may, if it think fit, appoint male or female inspectors to enforce this Act, and, if any such persons retaining or receiving infants as aforesaid are found in its district, it shall either appoint such inspectors or arrange for the infants being visited by women nominated by the local authority and authorised by it in writing to enforce the provisions of this Act.

(3) A local authority may also, if it think fit, appoint or authorise in writing other suitable persons to execute the provisions of this Act, subject to such terms and conditions as may be stated in such appointment or authorisation.

(4) Any local authority may combine with any other local authority for the purpose of executing the provisions of this Act, and for defraying the expenses of such execution.

(5) Any inspector or other person duly appointed and authorised in writing by or on behalf of the local authority shall from time to time inspect any infants referred to in any notice given under this Act, and the premises in which they are retained or received, in order to satisfy himself as to the proper maintenance of such infants or to give any necessary advice or directions as to such maintenance.

(6) If any person retaining or receiving such infants refuses to allow any such inspector or other person to inspect such infants or the premises in which they are retained or received he shall be guilty of an offence against this Act.

(7) If any such inspector or other person is refused admittance to any

(*a*) **Infant Life Protection Act, 1897.**—This Act was passed subsequent to the publication of "London Local Government," and repeals the Infant Life Protection Act, 1872. Pages 994*a* to 994*d* are therefore printed for insertion immediately after p. 994, and in substitution for pp. 995 to 997. It will be observed that where more than one infant is received for hire, the Act substitutes notification to the local authority of the infants received, for the registration of the house in which they are received; raises the limit of age of such infants from one year to five years; and requires notice to be given by any person receiving an infant for not more than twenty pounds paid down.

60 & 61 Vict.  
c. 57.

premises in contravention of this Act, or has reason to believe that any infants under the age of five years are being kept in any house or premises in contravention of this Act, he may apply to any stipendiary magistrate or to any two justices of the peace, who, on being satisfied, on information in writing made before him or them on oath, that there is reasonable ground for believing that an offence against this Act has been committed, may grant a warrant authorising such inspector or other person to enter the house or premises for the purpose of inspection or of ascertaining whether any offence against this Act has been committed, and if the occupier of the house or premises or other person obstruct any inspector or other person acting in pursuance of such warrant, he shall be guilty of an offence against this Act.

Local authority  
to fix number  
of infants  
which may be  
retained.

4. It shall be the duty of the local authority to fix the number of infants under the age of five years which may be retained or received in any dwelling in respect of which notice has been received under this Act, and any person retaining or receiving any infant in excess of the number so fixed, shall be guilty of an offence against this Act.

Notice to be  
given to local  
authority by  
person  
receiving an  
infant for not  
more than 207.  
paid down.

5. Any person retaining or receiving an infant under the age of two years on consideration of a sum of money not exceeding twenty pounds paid down, and without any agreement for further payment, as value for the care and bringing up of the said infant until it is reclaimed or of an age to provide for itself, shall within forty-eight hours from the time of receiving such infant give notice of the fact to the local authority. If he does not give the notice required by this section, he shall be liable to forfeit the amount of any sum received by him in respect of such infant, or such less sum as the court having cognizance of the case shall deem just, and the court shall give directions as to the manner in which the sum forfeited shall be applied for the benefit of the infant, and shall, if necessary, cause the infant to be removed to a workhouse or place of safety, and the master of such workhouse shall receive such infant, which shall be maintained in the workhouse or place of safety until it can be otherwise lawfully disposed of.

Notice of pro-  
visions of Act.

6. It shall be the duty of the local authority to give public notice of the provisions of this Act by the publication of an abstract thereof or otherwise as a Secretary of State may direct.

Removal of  
infant im-  
properly kept.

7.—(1.) Should any infant, in respect of which notice is required to be given under this Act,—

- (a) be kept in any house or premises which are so unfit or so overcrowded as to endanger its health; or
- (b) be retained or received by any person who, by reason of negligence, ignorance, or other cause, is so unfit to have its care and maintenance as to endanger its health;

any inspector or other person appointed for the purposes of this Act may apply to the local authority for an order in writing directing him to remove such infant to a workhouse or place of safety, until it can be restored to its relatives or guardians or be otherwise lawfully disposed of.

(2) Any person refusing to comply with an order under this section upon the same being produced and read over to him, or obstructing the inspector or other authorised person in the execution thereof, shall be guilty of an offence under this Act, and the inspector may apply to any justice of the peace for an order directing the removal of the child, and such order may be enforced by any police constable.

(3) The master of any workhouse shall receive into the workhouse any child brought there under such order, and such child shall be maintained in the workhouse until it can be otherwise disposed of.

(4) No infant shall be retained or received for hire or reward by any person from whose care any infant has been removed under this section, or by any person convicted of any offence under the Prevention of Cruelty to and Protection of Children Acts (b), unless with the sanction in writing of the local

(b) **Prevention of Cruelty to and Protection of Children Acts.**—No such collective title as this is given in the Short Titles Act, 1896 (59 & 60 Vict. c. 14). Presumably the offences referred to are any offence under the Prevention of Cruelty to Children Act, 1894 (57 & 58 Vict. c. 41), or any offence mentioned in the Schedule to that Act,



authority; and any person retaining or receiving any infant contrary to this section shall be guilty of an offence against this Act. 60 & 61 Vict. c. 57.

8. In case of the death of any infant respecting whom notice is required under this Act, the person having the care of such infant shall, within twenty-four hours of such death, cause notice thereof to be given to the coroner of the district within which the body of such infant lies, and the coroner shall hold an inquest thereon, unless a certificate under the hand of a registered medical practitioner (c) shall be produced to him, certifying that such registered medical practitioner has personally attended or examined such infant, and specifying the cause of its death, and the coroner shall be satisfied by such certificate that there is no ground for holding such inquest. If the person having the care of such infant shall neglect to give the notice in this section mentioned he shall be guilty of an offence against this Act. Notice to coroner.

9. Every person guilty of an offence under this Act shall be liable to a penalty not exceeding five pounds, or to imprisonment for not more than six months, as a court of summary jurisdiction may award. Penalties.

10. All expenses incurred by or on behalf of the local authority in and about the execution of this Act shall be defrayed out of the local rate. Expenses.

11. Any offence under this Act may be prosecuted and any forfeiture recoverable before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts (d). Prosecution of offences.

12. Any moneys arising from penalties under this Act shall, notwithstanding any provision in any other Act, be paid to the local authority, and be applied to the purposes to which the local rate is applicable. Application of fines.

13. Every notice by this Act required to be given to the local authority shall be in writing, and shall be sent by post as a registered letter to the clerk of the local authority, or to such other person as the local authority may appoint, or be delivered at the office of the local authority. Notices to local authority.

14. The provisions of this Act shall not extend to the relatives or guardians of any infant by them retained or received as aforesaid, or to any person receiving any infant for the purpose of nursing or maintaining such infant under the provisions of any Act for the relief of the poor or of any order of the Local Government Board made under such Act; or to hospitals, convalescent homes, or institutions established for the protection and care of infants and conducted in good faith for religious or charitable purposes. Exemptions.

15. The terms "local rate," "local jurisdiction," and "local authority," mean in reference to the districts mentioned in the first column of the schedule to this Act, the rate, jurisdiction, and authority mentioned in the second, third, and fourth columns of the said schedule, and such schedule shall be deemed to be part of this Act. The term "place of safety" shall mean any suitable place, the occupier of which is willing temporarily to receive such infant. The term "relatives" shall mean and include the parents, grandparents, and uncles, and aunts, by consanguinity or affinity, of the infant retained or received as aforesaid, and in the case of illegitimate infants the persons who would be so related if the infant were legitimate. Definitions.

16, 17. [*Application to Scotland and Ireland.*]

18. [*Repeal of Infant Life Protection Act, 1872, 35 & 36 Vict. c. 38.*]

19. [*Commencement of Act, 1st January, 1898.*]

viz. :—"Any offence under secs. 27, 55, or 56 of the Offences against the Person Act 1861 (24 & 25 Vict. c. 100), and any offence against a child under secs. 43 or 52 of that Act. Any offence under the Children's Dangerous Performances Act, 1879 (42 & 43 Vict. c. 34). Any other offence involving bodily injury to a child under the age of sixteen years."

(c) **Registered medical practitioner.**—i.e., a person registered under the Medical Act, 1858 (21 & 22 Vict. c. 90), sec. 34; or, if a colonial or foreigner, under the Medical Act, 1886 (49 & 50 Vict. c. 48), sec. 14.

(d) **Prosecution of offences.**—As to the manner of commencing summary proceedings, and the limit of time within which they must be brought, see note (s) *ante*, Vol. I., p. 203.

60 & 61 Vict.  
c. 57.

SCHEDULE referred to in the foregoing Act.

Sec. 15.

ENGLAND and WALES.

| District.         | Local Rate.                                                                    | Local Jurisdiction.                                       | Local Authority.        |
|-------------------|--------------------------------------------------------------------------------|-----------------------------------------------------------|-------------------------|
| County of London. | Rate or fund applicable to the payment of the general expenses of the Council. | Area of the County of London (except the City of London). | London County Council.  |
| City of London.   | Consolidated sewers rate.                                                      | Area of the City of London and the liberties thereof.     | Common Council.         |
| Other places.     | Rate or fund applicable to the general expenses of the guardians.              | The poor law union.                                       | The board of guardians. |

SCOTLAND. IRELAND.

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NOTE.

The INFANT LIFE PROTECTION ACT, 1872, pp. 995—997, *post*, is Repealed, and replaced by the INFANT LIFE PROTECTION ACT, 1897, *supra*. See note (a), p. 994*a*, *ante*.

# INFANT LIFE PROTECTION.

## INFANT LIFE PROTECTION ACT, 1872.

35 & 36 Vict. c. 38. An Act for the better Protection of Infant Life.  
[25th July, 1872]

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| <p>1. * * * * *</p> <p>The term "court of summary jurisdiction" means and includes any justice or justices of the peace, sheriff or sheriff substitute, metropolitan police magistrate, stipendiary or other magistrate or authority, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to, or to proceedings before whom the provisions of the Summary Jurisdiction Acts are or may be made applicable :</p> <p>In this Act the words "local rate," "local jurisdiction," and "local authority," mean, in reference to the districts mentioned in the first column of the first schedule annexed hereto, the rate, jurisdiction and authority mentioned in the second, third, and fourth columns of the said schedule, and such schedule and the notes thereto annexed shall be deemed to be part of this Act.</p> <p>2. It shall not be lawful for any person to retain or receive for hire or reward in that behalf more than one infant, and in case of twins more than two infants, under the age of one year for the purpose of nursing or maintaining such infants apart from their parents for a longer period than twenty-four hours, except in a house which has been registered as herein provided.</p> <p>3. The local authority shall cause a register to be kept in which shall be entered the name of every person applying to register any house for the purposes of this Act, and the situation of every such house, and the local authority shall from time to time make byelaws for fixing the number of infants who may be received into each house so registered; the registration shall remain in force for one year; no fee to be charged for registration. Every person who receives or retains any infant in contravention to the provisions of this Act shall be guilty of an offence against this Act.</p> <p>4. The local authority may refuse to register any house, unless they are satisfied that such house is suitable for the purposes for which it is to be registered, and unless they are satisfied by the production of certificates that the person applying to be registered is of good character, and able to maintain such infants.</p> <p>5. The person registered as aforesaid shall immediately enter in a register to be kept by him the name, sex, and age of each infant under his care, and the date at which and the names and addresses of the persons from whom they were received, and shall also enter in the said register the time when and the names and addresses of the person by whom every such infant received and retained as aforesaid shall be removed immediately after the removal of such infant, and shall produce the said register when required to do so by the local authority; and in the event of his refusing so to produce the said register or neglecting to enter in a register the name, sex, and age of each of the said infants, and the date at which and the names and addresses of the persons from whom they were received and by whom they were removed respectively, shall be liable to a penalty not exceeding five pounds. The person registered shall be entitled to receive gratuitously from the local authority a book of forms for the registration of infants; such register may be in the form contained in the second schedule to this Act.</p> <p>6. If any person shall make false representations with a view to being registered under this Act, or shall forge any certificate for the purpose of this Act, or make use of any forged certificate, knowing it to be forged, or shall falsify any register kept in pursuance of this Act, he shall be guilty of an offence against this Act.</p> <p>7. If it shall be proved to the satisfaction of the local authority that any person whose house has been so registered as aforesaid has been guilty of serious neglect, or is incapable of providing the infants intrusted to his care with proper food and attention, or that the house specified in the register has become unfit for the reception of infants, it shall be lawful for the local authority to strike his name and house off the register.</p> | <p>Interpretation clause.</p> <p>Houses of persons retaining or receiving for hire two or more infants for the purpose of nursing to be registered. Register of names and houses to be kept by local authority.</p> <p>Local authority may refuse to register.</p> <p>Persons whose names and houses are registered to keep a register of infants and to produce it when lawfully required.</p> <p>Forgery of certificate and falsifying register.</p> <p>Local authority may strike name and house off register for neglect, &amp;c.</p> |
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35 & 36 Vict.  
c. 38.

Inquest to be  
held on death  
of infant.

Punishment  
for offence  
under this Act.

Payment of  
expenses out of  
local rate.

Offence how to  
be prosecuted.

Application of  
penalties  
recovered  
under the Act.  
Exceptions  
from provisions  
of Act.

Short title.

8. The person registered as aforesaid shall within twenty-four hours after the death of every infant so retained or received cause notice thereof to be given to the coroner for the district within which the said infant died, and the said coroner shall hold an inquest on the body of every such infant unless a certificate under the hand of a registered medical practitioner shall be produced to him by the person so registered certifying that such registered medical practitioner has personally attended or examined such infant, and specifying the cause of its death, and the said coroner shall be satisfied by such certificate that there is no ground for holding such inquest. If the person so registered shall neglect to give notice as aforesaid he shall be guilty of an offence under this Act.

9. Every person guilty of an offence under this Act shall be liable to imprisonment for not more than six months, with or without hard labour, or to a penalty not exceeding five pounds, as a court of summary jurisdiction may award, and shall in addition be liable to have his name and house struck off the register.

10. All expenses incurred in and about the execution of this Act shall be defrayed out of the local rate.

11. Any offence under this Act may be prosecuted before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts: Provided as follows:

(a) \* \* \* \* \*

The court of summary jurisdiction, when hearing, trying, determining, and adjudging an information or complaint in respect of any offence or matter arising under this Act, shall be constituted either of two or more justices of the peace in petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.

12. Any moneys arising from fees or fines under this Act shall be paid to the account of the local rate, and be applied to the purposes to which that rate is applicable.

13. The provisions of this Act shall not extend to the relatives or guardians of any infant retained or received as aforesaid, nor to institutions established for the protection or care of infants, nor to any person receiving any infant for the purpose of nursing or maintaining such infant under the provisions of any Act for the relief of the poor.

14. [*Application of Act to Scotland.*]

15. [*Rep. by 56 & 57 Vict. c. 54. Statute Law Revision.*]

16. This Act may be cited as the Infant Life Protection Act, 1872.

#### THE FIRST SCHEDULE referred to in the foregoing Act.

##### ENGLAND.

| District.                                           | Local Rate.                                                                      | Local Jurisdiction.       | Local Authority.                     |
|-----------------------------------------------------|----------------------------------------------------------------------------------|---------------------------|--------------------------------------|
| Counties, except the Metropolis and City of London. | The county rate or rate in the nature of a county rate.                          | Petty sessional division. | Justices in petty sessions.          |
| The Metropolis.....                                 | Rate or fund applicable to the payment of the general expenses of the board (b). | Area of the Metropolis.   | The Metropolitan Board of Works (c). |

(a) **Section 11.**—The words omitted from this section are repealed by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 4.

(b) **Rate applicable to general expenses.**—Now the general county rate. Loc. Govt. Act, 1888, secs. 3 (i), 40 (9), and 68, *ante*, vol. i.

(c) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

FIRST SCHEDULE—*continued*.

35 & 36 Vict.  
c. 38.

| District.                                 | Local Rate.                       | Local Jurisdiction.                                   | Local Authority. |
|-------------------------------------------|-----------------------------------|-------------------------------------------------------|------------------|
| City of London and the liberties thereof. | Consolidated sewers rate.         | Area of the City of London and the liberties thereof. | Common council.  |
| Boroughs .....                            | The borough fund or borough rate. | Area of borough...                                    | Council.         |

“County” shall not include a county of a city or county of a town, but shall include any riding, division, parts, or liberty of a county having a separate commission of the peace.

Where a county or liberty of a county having a separate commission of the peace is not divided into petty sessional divisions, such county or liberty of a county shall itself for the purposes of this Act be deemed to be a petty sessional division of the county by which it is constituted or in which it is geographically situate.

“The Metropolis” shall include all parishes and places in which the *Metropolitan Board of Works* (d) have power to levy a *main drainage rate* (e), exclusive of the City of London and the liberties thereof.

[“Borough” means *municipal borough*.]

Every place that is not, according to the foregoing definitions, a borough, a county, or part of the Metropolis, or City of London, or the liberties thereof, shall be deemed to form part of the county, as hereinbefore defined, to the county rate of which it is assessed, or, if not so assessed, of the county within which it is situate.

[*Application of Act to Scotland and Ireland.*]

THE SECOND SCHEDULE referred to in the foregoing Act.

REGISTER OF INFANTS.

| Date at which received. | Name. | Sex. | Age. | Name and Address of Person from whom received. | Date at which removed. | Name and Address of Person by whom removed. |
|-------------------------|-------|------|------|------------------------------------------------|------------------------|---------------------------------------------|
|                         |       |      |      |                                                |                        |                                             |

(d) **Rate applicable to general expenses.**—See note (b) on page 996.

(e) **Main drainage rate.**—This rate was superseded by the metropolitan consolidated rate (see Met. Bd. Wks. (Loans) Act, 1869, sec. 22, *post*, tit. “*Loans*”), which is now superseded by the county rate. See note, *supra*.

## LOANS.

|                          |                                                   |                                   |
|--------------------------|---------------------------------------------------|-----------------------------------|
| 32 & 33 Vict. c. 102     | ("Metropolitan Board of Works (Loans) Act, 1869") | ...p. 998                         |
| 33 & 34 Vict. c. 24      | ("Metropolitan Board of Works (Loans) Act, 1870") | ..... 1010                        |
| 34 & 35 Vict. c. 47      | ("Metropolitan Board of Works (Loans) Act, 1871") | ..... 1010                        |
| 38 & 39 Vict. c. 65      | ("Metropolitan Board of Works (Loans) Act, 1875") | ..... 1012                        |
| 46 & 47 Vict. c. 27      | ("Metropolitan Board of Works (Money) Act, 1883") | ... 1013                          |
| 48 & 49 Vict. c. 50      | ("Metropolitan Board of Works (Money) Act, 1885") | ... 1014                          |
| 52 & 53 Vict. c. 61      | ("London Council (Money) Act, 1889")              | sec. 15, <i>note (f)</i> ... 1003 |
| 54 & 55 Vict. c. 62      | ("London County Council (Money) Act, 1891")       | ..... 1017                        |
| 59 & 60 Vict. ch. ccxiv. | ("London County Council (Money) Act, 1896")       | ..... 1017                        |
| 54 & 55 Vict. c. 43      | ("Forged Transfers Act, 1891")                    | ..... 1022                        |
| 55 & 56 Vict. c. 36      | ("Forged Transfers Act, 1892")                    | ..... 1023                        |

METROPOLITAN BOARD OF WORKS (LOANS) ACT, 1869 (*a*),

**32 & 33 Vict. c. 102.** An Act for making further provision respecting the borrowing of Money by the Metropolitan Board of Works, and for other purposes connected therewith. [11th August, 1869]

[*Preamble.*]

Short title.

1. This Act may be cited as The Metropolitan Board of Works (Loans) Act, 1869.

Definition of terms.

2. In this Act—

The term "board" means the *Metropolitan Board of Works* (*b*).

The term "improvement fund" means the Thames embankment and Metropolis improvement fund constituted under the London Coal and Wine Duties Continuance Act, 1861, and the Acts amending and continuing the same (*c*).

Each of the several series of Acts specified in the different parts of the first schedule to this Act is in this Act referred to by the collective name given to such series in such separate part.

Exercise by board of borrowing powers.

3. The *board* (*b*) shall not (except for such temporary period not exceeding six months as the Treasury may from time to time sanction) raise, otherwise than in conformity with this Act and with the sanction of the Treasury, any money under any powers of borrowing, whether conferred by the Acts mentioned in the first schedule to this Act, or otherwise howsoever.

Creation by board of consolidated stock.

4. The *board* (*b*), for the purpose of raising such portion of the loans authorised by the Acts mentioned in the first schedule to this Act for the purposes of those Acts as the Treasury may from time to time sanction (*d*), may create capital stock, to be called the metropolitan consolidated stock, in this Act referred to as consolidated stock, and to be issued in such amounts and manner, at such price and times, on such terms, subject to such conditions, with such dividends, and redeemable (at the option of the *board* (*b*)), at par at such times and on such conditions as the Treasury, before the creation thereof, may from time to time approve (*d*).

Security for stock.

5. No holder of any portion of consolidated stock shall have any priority or preference by reason of the prior creation of such stock or otherwise, and all

(*a*) **Loans.**—The London County Council can only borrow in accordance with the Acts relating to the Met. Bd. Wks. Loc. Govt. Act, 1888, sec. 40 (8) and (9), *ante*, vol. i., as amended by their subsequent Acts.

(*b*) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8) and (9), *ante*, vol. i.

(*c*) **London Coal and Wine Duties Continuance Act, 1861** (24 & 25 Vict. c. 42).—This Act was continued till 1889 by the London Coal and Wine Duties Continuance Act, 1868 (31 Vict. c. 17), and was virtually repealed by the London Coal Duties Abolition Act, 1889 (52 & 53 Vict. c. 17).

(*d*) **Sanction of Treasury.**—The sanction or approval of the Treasury is not required as respects stock issued after the passing of the Lon. Coun. Council (Money) Act, 1896. *Ib.* sec. 23, *post*.



consolidated stock created for the purposes of the Acts mentioned in the first schedule to this Act, or of any Act hereafter to be passed, and the dividends thereon, and the sums required for the redemption thereof, shall be charged indifferently on the whole of the lands, rents, and property belonging to the *board* (e), under the Acts mentioned in the first schedule to this Act, and on all moneys which can be raised by the board by rates under this Act, and on the improvement fund, subject to all charges existing at the passing of this Act on such lands, rents, property, moneys, and fund respectively, and shall be a first charge thereon after those charges; and all moneys required for payment of the dividends on such stock, and the sums required to be raised for the redemption of such stock as mentioned in this Act, shall be raised out of the improvement fund and *metropolitan consolidated rate* (f) as in this Act mentioned.

32 & 33 Vict.  
c. 102.

6. Where any stock has been created under this Act in order to raise any portion of a loan authorised by any of the Acts mentioned in the first schedule to this Act for the purposes of any of those Acts, such stock is referred to in this Act as created for the purposes of such Act, and the money raised thereby shall be deemed to have been borrowed under and for the purposes of such Act, and shall (subject to the provisions of this Act) be applied accordingly.

Application of  
money raised.

7. All consolidated stock shall be personal estate, and shall not descend to the heir or be liable to any foreign attachment by the custom of London or otherwise (g).

Stock, &c. to  
be personal  
estate.

8. [*Rep. by 56 & 57 Vict. c. 54. Statute Law Revision.*]

9. The Commissioners for the Reduction of the National Debt, if they think fit, with the approval of the Treasury, may from time to time, out of any moneys coming into their hands under any Act relating to savings banks or to post office savings banks, make advances to the *board* (e) on the security of consolidated stock without any further or other security, and may invest the said moneys in such stock.

Investment  
and advance by  
Commissioners  
for the Reduction  
of the  
National Debt.

10. The *board* (e) shall cause to be kept at their office, or at some bank to be approved by the Treasury (h), books in which the names and addresses of the several persons and bodies corporate from time to time entitled to consolidated stock, and the amounts to which they are respectively entitled, and all transfers thereof, shall be duly entered.

Books to be  
kept for  
consolidated  
stock.

11. Consolidated stock shall be transferred only as follows:—

Transfer of  
stock.

- (1) The transfer shall be made in the said books, and shall be signed in such books by the *transferee* (i) or by his attorney duly authorised in that behalf, which authority shall be given by writing under his hand and seal attested by two or more witnesses:
- (2) The transfer may be in the form contained in the second schedule to this Act, which shall be effectual in law to pass to the transferee all the interest of the transferor in the stock expressed to be transferred and the dividends thereon:
- (3) The acceptance of the transfer may be signified by the transferee, or his attorney authorised in manner aforesaid in that behalf, subscribing such acceptance in the said books:

(e) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8) and (9), *ante*, vol. i.

(f) **Metropolitan consolidated rate.**—This rate is superseded by the county rate, raised by precepts issued to the guardians by the County Council. See the Loc. Govt. Act, 1888, secs. 3 (i), 40 (9), and 68 (4), *ante*, vol. i., and the County Rates Act, sec. 26, *post*, tit. “Rating.”

(g) **Personal estate.**—A bequest of Met. Bd. Wks. Consolidated Stock being charged on land, has been held to be a gift of impure personalty within the Mortmain Acts. *Cluff v. Cluff*, 2 Ch. D. 222; *Crossley, Re*; *Birrell v. Greenhough*, 76 L. T. (N. S.) 419. But see *Jervis v. Lawrence*, 22 Ch. D. 202.

(h) **Approved by Treasury.**—The approval of the Treasury is not required as respects stock issued after the passing of the Lond. Coun. Council. (Money) Act, 1896. *Ib.*, sec. 23, *post*.

(i) **Transferee.**—Substitute “transferor” for “transferee.” Met. Bd. Wks. (Loans) Act, 1870, sec. 7, *post*.

32 & 33 Vict.  
c. 102.

- (4) A person becoming entitled to any stock in consequence of the death, bankruptcy, or marriage of the owner, or by any lawful means other than by transfer under this Act, shall produce such evidence of his title as may be reasonably required by the board, or by the persons or body corporate who keep the said books.

No notice of any trust, express, implied, or constructive, shall be entered in the said books or receivable by the board, or by any persons or body corporate who keep such books.

12. [*Rep. by 46 & 47 Vict. c. 39. Statute Law Revision.*]

Books to be  
evidence.

13. The books so kept under the provisions of this Act shall be evidence of all matters therein entered under the provisions of this Act, and of the title of persons or bodies corporate entered therein as owners of any consolidated stock who are mentioned therein as such owners.

Certificates of  
stock.

14. The *board (k)*, persons, or body corporate who keep the said books may, if the *board (k)* think fit, issue to the holder of any consolidated stock a certificate under the hand of some officer of the board or body corporate or of such persons, which certificate shall specify the amount of stock to which such owner is entitled, and such certificate shall be evidence of the title of the holder at the date of the certificate to the amount of stock stated therein, but the want of such certificate shall not prevent the owner of any consolidated stock from transferring the same.

Certificate to  
be renewed  
when  
destroyed.

15. If any such certificate be worn out or damaged, then the same may, upon the production thereof, be cancelled, and another similar certificate may be given to the holder of the stock therein specified, or if such certificate be lost or destroyed, then upon proof thereof to the satisfaction of the *board (k)*, persons, or body corporate who keep the said books, a similar certificate shall be given to the holder of the stock specified in the certificate so lost or destroyed, and in either case a due entry of the substituted certificate shall be made in the said books, and for every such certificate given in pursuance of this section a fee not exceeding two shillings, to be carried to the account of the *board (k)*, may be demanded.

Provisions of  
26 & 27 Vict.  
c. 28, as to  
certificates to  
bearer, to  
extend to this  
Act.

16. The Stock Certificate Act, 1863 (*l*) (which relates to the issue to holders of stock in the public funds of certificates to bearer transferable by delivery), shall extend to consolidated stock in the same manner as if such Act were herein enacted, with the following modifications; namely,

- (1) The term "the bank" shall be construed to mean the *board (k)*, persons, or body corporate who keep the books for the transfer of consolidated stock:
- (2) The terms "public stocks" and "stock" shall be construed to mean consolidated stock:
- (3) The term "the books of the bank" shall be construed to mean the books kept for the transfer of consolidated stock in pursuance of this Act:
- (4) All fees shall be paid to the account of the board:
- (5) [*Rep. by 46 & 47 Vict. c. 39. Statute Law Revision.*]
- (6) The provision respecting a stock certificate, in respect of which no coupons have been presented for payment for a period of ten years, shall not extend to consolidated stock.

Arrangement  
with bank.

17. The *board (k)* may enter into such arrangement with any bank for carrying into effect the provisions of this Act with reference to the creation and transfer of consolidated stock, and the management thereof, and the keeping of the said books, and for the proper remuneration of the bank with reference thereto, as may be approved by the Treasury (*m*).

(*k*) *Met. Bd. Wks.*—Now the London County Council. *Loc. Govt. Act, 1888*, sec. 40 (8) and (9), *ante*, vol. i.

(*l*) *The Stock Certificate Act, 1863*, was repealed by 33 & 34 Vict. c. 69 (*Statute Law Revision*), and substituted provisions are contained in the *National Debt Act, 1870* (33 & 34 Vict. c. 71), secs. 26—42. The present section has effect as if the substituted provisions were referred to in lieu of the *Stock Certificate Act*. See *Met. Bd. Wks. (Loans) Act, 1870*, sec. 8, *post*.

(*m*) *Approved by Treasury*.—The approval of the Treasury is not required as respects stock issued after the passing of the *Lond. Coun. Council. (Money) Act, 1896. Ib.*, sec. 23, *post*.

18. [*Stamp duty on transfers. Rep. by 46 & 47 Vict. c. 39. Statute Law Revision (n).*] 32 & 33 Vict. c. 102.

19. For the purposes of the Forgery Act, 1861, all consolidated stock shall be deemed to be capital stock of a body corporate within the meaning of that Act (o). Forgery, &c. of transfers of stock, &c. 24 & 25 Vict. c. 98.

20. Any person who, with intent to defraud makes any false entry in or alters any word or figure in any of the said books for transfers, or in any manner falsifies any of the said books, or makes any transfer of any consolidated stock, in the name of any person who is not the true owner thereof, shall be guilty of felony, and on conviction shall be liable to penal servitude for any term not exceeding fourteen years . . . Making false entries in books.

21. Any person who, being a clerk, officer, or servant of or employed by the board (p), or the persons or body corporate who keep the books for transfer of consolidated stock, does with intent to defraud make out or deliver any stock certificate, dividend warrant, or document for the payment of money in relation to any consolidated stock for a greater or less amount than the person on whose behalf such certificate, warrant, or document is made out is entitled to, shall be guilty of felony, and shall be liable on conviction to be kept in penal servitude for any term not exceeding seven years, or to be imprisoned for any term not exceeding two years, with or without hard labour. Making out false dividend warrants.

22. The board (p), for the purpose of paying the dividends on and redeeming the consolidated stock, and also of defraying the expenses authorised to be incurred and incurred by them in the obtaining or the execution of the Acts mentioned in the first schedule to this Act or any of them, and of defraying the sums required for the payment of the principal and interest of and the sinking funds for any securities granted by the board (p) for the purposes of those Acts or any of them, before the passing of this Act, shall (in lieu of all rates or assessments authorised at the passing of this Act to be assessed by them generally over the Metropolis) from time to time assess and raise a rate to be called the *metropolitan consolidated rate*, in this Act referred to as the *consolidated rate* (q). Power to levy consolidated rate.

Such rate shall be assessed and raised in manner provided by the Metropolis Management Act, 1855, and the Acts amending the same, with respect to the sums required for defraying the expenses of the board in the execution of that Act (r), and to sums assessed for the purposes of the Main Drainage Acts (s), and may be assessed wholly or in part in respect of expenses incurred or to be incurred, and also in respect of any unpaid balance of a former rate; and all the provisions of the Metropolis Management Act, 1855, and the Acts amending the same (r), concerning the estimate on which assessments by the board (p) are to be made, and for and in relation to the assessing, raising, and enforcing payment of the sums assessed by the board (p), shall, subject to the provisions of this Act,

(n) **Stamp duty on transfers.**—Any county council may enter into an agreement with the Commissioners of Inland Revenue, if the latter think proper, for the delivery of a half-yearly account, showing the nominal amount of all the stock and funded debt of such council. Upon payment, by way of composition, for stamp duty, of sixpence for every hundred pounds, or fraction thereof, of such nominal amount, transfers of any stock or funded debt included in such account, and also any stock certificates relating thereto, are exempt from stamp duty. Stamp Act, 1891 (54 & 55 Vict. c. 39), sec. 115.

(o) **Forgery Act, 1861.**—Secs. 2 and 3 make it a felony punishable by penal servitude for life to forge the transfer of any share or interest in any stock of, *inter alia*, any body corporate, or any power of attorney relating thereto, or to personate the owner of such stock, and thereby endeavour to transfer or receive the stock or dividends. Sec. 4 makes it a felony punishable by seven years' penal servitude to forge the attestation to any power of attorney or authority to transfer such stock. See also Met. Bd. Wks. (Money) Act, 1883, sec. 21 and note thereto, *post*.

(p) **Met. Bd., Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8) and (9), *ante*, vol. i.

(q) **Consolidated rate.**—Now the county rate. See note to sec. 5, *ante*.

(r) **Met. Man. Act, 1855.**—See secs. 171—179 of that Act and secs. 5—14 of the Met. Man. Amend. Act, 1862, *ante*, vol. i.

(s) **Main Drainage Acts.**—See sec. 2, *ante*, and sched. 1, *post*. See also Met. Bd. Wks. (Loans) Act, 1871, sec. 3, *post*, making amended provisions respecting main drainage securities.





32 & 33 Vict.  
c. 102.

extend and apply to and in the case of the consolidated rate in the same manner as if that rate were therein mentioned instead of the sums required for defraying the expenses of the board incurred in the execution of the Metropolis Management Act, 1855, and for the main drainage rate respectively (*t*).

Every precept issued by the *board (u)* for the purposes of the metropolitan consolidated rate shall specify, first the proportion of the amount named in the precept which is required for the purpose of paying the principal and interest of and sinking fund for securities granted by them before the passing of this Act, and the dividends on and the sums required for the redemption of consolidated stock under this Act, and secondly the proportion of such amount which is required for all other purposes of the *board (u)*.

In making an estimate for the first-mentioned portion of the consolidated rate the *board (u)* shall compute the part required in respect of securities granted or stock issued for the purposes of the Main Drainage Acts and the Fire Brigade Act respectively.

In making an estimate for the last-mentioned portion of the consolidated rate the *board (u)* shall not estimate the sum required for the purposes of the Fire Brigade Act as larger than a sum which would be produced by a rate of one half-penny in the pound on the gross value of the property assessed to the metropolitan consolidated rate, and shall compute the part of the said portion of the consolidated rate required for those purposes.

The *board (u)* shall state in every precept and shall keep a record of all computations required to be made by this section, which record shall be open to inspection by any person on payment of a fee not exceeding one shilling, and shall be conclusive for all purposes whatsoever.

Nothing in this section shall delay or accelerate, or authorise the *board (u)* to delay or accelerate, the repayment of any principal or interest of, or the providing of a sinking fund for any securities granted by the *board (u)* before the passing of this Act for the purposes of the Main Drainage Acts (*t*) without the consent of the holders thereof; and while such securities remain undischarged the *board (u)* shall from time to time ascertain the amount which would have been raised by the levying of the main drainage rate, and the amount which would have been so raised shall be charged on the consolidated rate, and be deemed to be from time to time payable thereout before any portion of that rate is applied to any other purpose.

Nothing in this section shall extend to any sum levied under section one hundred and eighty-one of the Metropolis Management Act, 1855.

Saving of  
rights.

**23.** Where any portion of the consolidated rate represents any rate which for the purposes of any contract or otherwise is deemed to be a landlord's or tenant's rate (*x*), such portion shall for those purposes be deemed to be such landlord's or tenant's rate as the case may be, and all rights at the passing of this Act existing as between landlord and tenant, or enjoyed by any person under statute, contract, or otherwise in relation to the sums or rates assessed by the *board (u)*, shall continue to exist and be enjoyed in relation to the consolidated rate as between and by the same persons and in the same manner as in relation to such sums or rates.

Orders of  
vestry and  
district board  
for raising  
money re-  
quired for  
consolidated  
rate.

**24.** Where a vestry or district board make an order requiring the overseers (including in the term any body of persons performing the duties of overseers) of any parish in their district to levy and pay over the sum which such vestry or district board require (*y*) to raise for the purpose of satisfying or of replacing any sum expended in satisfying any precept of the *board (u)* for the purposes of

(*t*) **Main Drainage Acts.**—See sec. 2, *ante*, and sched. 1, *post*.

(*u*) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8) and (9), *ante*, vol. i.

(*x*) **Landlord's or tenant's rate.**—See Met. Man. Act, 1855, sec. 159, and Met. Man. Amend. Act, 1862, sec. 96 and notes thereto, *ante*, vol. i.

(*y*) **Orders of vestry, &c.**—As to orders of vestries and district boards requiring overseers to levy sums to meet the County Council's precepts, see Met. Man. Act, 1855, sec. 158 *et seq.*, *ante*, and sec. 171; and Met. Man. Amend. Act, 1862, sec. 9, *ante*, vol. i. The precepts of the County Council are issued to the guardians. See the Loc. Govt. Act, 1888, secs. 3 (i), 40 (9), and 68 (4), *ante*, vol. i.; and the County Rates Act, 1852, sec. 26, *post*, tit. "Rating."

the *consolidated rate* (z), such vestry and district board shall distinguish in their order the sum to be levied in such parish for that purpose, and the sum (if any) required for other purposes of such vestry and district board; and the overseers or collectors shall, in the demand notes or receipts to be given by them for the sums levied or collected in pursuance of such order, distinguish the rate in the pound required to meet the sum specified in the order to be required for the purpose of satisfying such precept, and the rate in the pound specified to be required for other purposes.

32 & 33 Vict.  
c. 102.

Every such order, demand note, and receipt shall also specify the whole sum paid by such vestry or district board for satisfying such precept, and the proportions specified in the precept as required for the purposes of securities and consolidated stock, and for other purposes of the board respectively, and for the purposes of the Main Drainage Acts and the Fire Brigade Act respectively (a).

25. The places mentioned in schedule C. to the Metropolis Management Act, 1855, and every liberty, precinct, and place in the Metropolis, shall be liable to the metropolitan *consolidated rate* (z), except so far as they may be entitled under the General Improvement Acts (b) to any exemption from any rate or assessment or part of a rate; and for this purpose they shall be deemed to be respectively benefited by all works executed (before or after the passing of this Act) by the board under the Main Drainage Acts (a), and those works shall be deemed works for carrying into effect a plan for preventing the sewage of the Metropolis from flowing into the River Thames in or near the Metropolis.

Exempted  
places.

26. For the purpose of paying the dividends on and redeeming consolidated stock created under this Act there shall be established a fund to be called the consolidated loans fund of the Metropolis, in this Act referred to as the consolidated loan fund, and, subject to the provisions of this Act, the board (c) shall keep a separate account of such fund.

Consolidated  
loans fund.

27. The board (c) shall carry to the consolidated loans fund the moneys following (after providing for all charges on such moneys existing at the passing of this Act and to which the same shall for the time being be applicable); that is to say—

Moneys ap-  
plicable to  
consolidated  
loans fund.

- (1) All moneys whether in the nature of capital or otherwise arising from the sale, lease, or other disposition of lands, rents, and property belonging to the board;
- (2) The residue of the improvement fund (d) which may come into their hands in the manner mentioned in this Act;
- (3) Such an annual sum in every year out of the *consolidated rate* (z) and out of the contributions paid to the board in pursuance of the Fire Brigade Act (e) or out of one of such sources as may be equal to two per cent. on the total nominal amount of consolidated stock, whether it has been cancelled or not; or
- (4) Such greater or less annual sum as the Treasury may from time to time approve as being in their opinion necessary in order to pay the dividends on and to redeem all the consolidated stock in sixty years from the date of the creation thereof.

28. [*Application of consolidated loans fund* (f).]

(z) **Consolidated rate.**—See note to sec. 5, *ante*.

(a) **Main Drainage Acts. Fire Brigade Act.**—See sec. 2, *ante*, and sched. 1, *post*.

(b) **General Improvement Acts.**—See sched. 1, *post*.

(c) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8) and (9), *ante*, vol. i.

(d) **Improvement fund.**—See sec. 2, *ante*.

(e) **Fire Brigade Act.**—*Ante*, tit. “*Fire Brigade*.”

(f) **Application and investment of fund.**—“Section twenty-eight of the Met. Bd. of Wks. (Loans) Act, 1869, is hereby repealed. The consolidated loans fund shall, subject to regulations approved by the Treasury, be first applied in the payment of the dividends on consolidated stock, and then in purchasing and redeeming consolidated stock, and in payment of the principal or instalments of principal due on securities granted before the passing of the Met. Bd. of Wks. (Loans) Act, 1869, or for debts and liabilities transferred from the counties of Middlesex, Surrey, and Kent, and apportioned to the county of London under section forty of the Loc. Govt. Act, 1888. The council may in the meantime, and subject to regulations approved by the Treasury, invest any money for the time being forming part of the consolidated

32 & 33 Vict.  
c. 102.

Transfer of  
improvement  
fund to board.

Separate ac-  
count of  
amount raised  
for different  
Acts.

Conversion of  
existing  
securities into  
consolidated  
stock.

Consent of  
trustees, in-  
capacitated  
persons, &c. to  
conversion.

Creation of  
stock for  
paying off  
money bor-  
rowed, &c.

29. [*Rep. by 56 & 57 Vict. c. 54. Statute Law Revision.*]

30. . . . (g) The improvement fund shall be applied by the board (h) in the manner in which it is directed by this Act to be applied by the Treasury, and the accounts thereof shall, for the purpose of audit and all purposes whatever, be deemed to be accounts of the board (h), but shall, subject to the provisions of this Act, be kept as separate accounts.

31. The board (h) shall cause to be kept proper accounts showing the appropriation of the moneys raised by the stock created under this Act for the purposes of the different series of Acts, namely, the General Improvement Acts, the Main Drainage Acts, the Embankment Acts, and the Fire Brigade Act respectively.

All or any of the accounts of the board may be from time to time consolidated in such manner and on such conditions as the Treasury approve, and the accounts so kept shall be deemed sufficient for the purposes of any Act and all other purposes.

32. Where the board (h) before the passing of this Act have granted any security for the purposes of any of the Acts mentioned in the first schedule to this Act, they may enter into any arrangement with the holder of such security for the conversion thereof into such amount of consolidated stock as may be arranged between them. Such arrangement shall be made according to such regulations and on such terms as may be approved by the Treasury.

33. Any person who holds any security granted by the board before the passing of this Act for the purposes of any of the Acts mentioned in the first schedule to this Act, and who is one of the persons enabled by the Lands Clauses Consolidation Act, 1845 (i), to sell land under that Act, may consent to any arrangement approved by the Treasury under this Act, for the conversion of such security into consolidated stock, and to the payment of such security before the time limited for the payment thereof, and accept money for such consent in the same manner as if such person was the absolute owner in his own right of such security, and such person is hereby indemnified for so doing.

34. For the purpose of raising money, or (k) to pay off any security granted before the passing of this Act by the board for the purposes of any of the Acts mentioned in the first schedule to this Act, and for the purpose of the conversion of any such security, the board (h) may create consolidated stock under the

loans fund in any stocks, funds, or securities in which cash under the control or subject to the order of the Supreme Court may be invested under any order of the Supreme Court for the time being in force." London Council (Money) Act, 1889 (52 & 53 Vict. c. 61), sec. 15.

"Where the council of any county is authorised or required to invest any money for the purpose of a loans fund or sinking fund, any enactment relating to such investment shall be modified so far as to allow such money to be invested in any stocks, funds, shares, or securities in which trustees are authorised by this Act to invest except that such council . . . shall not by virtue of this section invest in any stock, funds, shares, or securities issued or created by themselves, nor in real or heritable securities. Provided that it shall not be lawful for any such council or authority to retain any securities which are liable to be redeemed at a fixed time at par, or at any other fixed rate, and are at a price exceeding their redemption value, unless more than fifteen years will elapse before the time fixed for redemption." Trust Investment Act, 1889 (52 & 53 Vict. c. 32), sec. 7. The other secs. of the Act are repealed and replaced by the Trustee Act, 1893 (56 & 57 Vict. c. 53).

(g) **Section 30.**—The words omitted from this section are repealed by 56 & 57 Vict. c. 54 (Statute Law Revision).

(h) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8) and (9), *ante*.

(i) **Lands Clauses Act, 1845** (8 Vict. c. 18). Sec. 7, enables all corporations, tenants in tail or for life, married women seised in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of lands in possession or subject to any estate in dower, or to any lease for life, or for lives and years, or for years, or any less interest, to sell land.

(k) "**Or.**"—Omit the word "or." Met. Bd. Wks. (Loans) Act, 1871, sec. 7, *post*.



provisions of this Act in like manner and with the like sanction (*l*) as they may create the same for the purpose of raising money for the purposes of the said Acts, and the money raised by such stock shall be applied in such payment, and all stock created under the provisions of this section shall be deemed to be created and the money raised thereby to have been borrowed for the purposes of the Acts for the purpose of which the original security was granted (*m*).

32 & 33 Vict.  
c. 102.

**35.** Where any security granted before the passing of this Act is paid off out of the consolidated loans fund, or by means of money raised by the creation of stock under this Act, or is converted into stock, and there is any sinking fund which has been formed for the payment of such security, either alone or jointly with other securities, the board shall carry to the consolidated loans fund such sinking fund, or such proportion thereof as may be the proportion which such security bears to the total of the securities for which such fund is the sinking fund.

Sinking fund  
of existing  
securities.

**36.** The board (*n*) may create consolidated stock for the purpose of raising, in addition to the loans authorised by the Acts mentioned in the first schedule to this Act, such further sums as the Treasury may sanction for the following purposes; namely,

Additional  
borrowing  
powers of  
board.

(1) For the purpose of completing the works authorised by the Main Drainage Acts, and for covering in and otherwise completing and making efficient the main sewers transferred to and vested in the board by the Metropolitan Management Act, 1855:

(2) For the purpose of completing the works authorised by the Embankment Acts:

(3) For the purpose of providing station houses, fire engines, fire escapes, and permanent plant for the purpose of the Fire Brigade Act:

and all the provisions of this Act shall apply in like manner as if such sums were loans authorised by the Main Drainage Acts, the Embankment Acts, and the Fire Brigade Act respectively, and all the provisions of those Acts relating to the execution of works respectively authorised by them shall continue in force and extend to the works executed by means of the money raised in pursuance of this section, and all stock created under this section shall be deemed to be created for the purposes of the above-mentioned Acts respectively.

**37.** Where the managers of the Metropolitan Asylum District (*o*) require to borrow money under "The Metropolitan Poor Act, 1867," and the Acts amending the same, such managers may borrow and the board may lend on the security authorised by those Acts such sums as the managers may have been authorised by the Poor Law Board, in pursuance of those Acts, to borrow, not exceeding in the whole five hundred thousand pounds.

Loans by board  
to managers of  
Metropolitan  
Asylum  
District.

For the purpose of raising the money so lent to the managers, the board may create consolidated stock under the provisions of this Act, in like manner and with the like sanction as they may create the same for the purpose of raising money for the purposes of the Acts mentioned in the first schedule to this Act, and all the provisions of this Act shall apply as if such money were raised and stock were created for the purposes of the last-mentioned Acts, with this exception, that the money required in pursuance of this section may be borrowed by the board in addition to the sum limited by this Act.

All sums received by the board from the said managers in respect of interest on or the principal of such loan shall be carried to the metropolitan consolidated loans fund.

Notwithstanding anything in the Metropolitan Poor Act, 1867, and the Acts amending the same, the amount so lent by the board shall be repaid to them by the said managers, with interest, within such period not exceeding sixty years as may be agreed upon between the board and the said managers, subject to the approval of the Treasury.

(*l*) Like sanction, i.e., the sanction of the Treasury, which, however, is not required as regards stock issued after the passing of the Lon. Coun. Counc. (Money) Act, 1896. *Ib.* sec. 23, *post*.

(*m*) Creation of consolidated stock.—See further, as to the powers conferred by this section, the Met. Bd. Wks. (Loans) Act, 1871, secs. 8 and 9, *post*.

(*n*) Met. Bd. Wks.—See note (*h*) on page 1004.

(*o*) Managers of Metropolitan Asylum District.—See note to sec. 43 (2) of the Loc. Govt. Act, 1888, *ante*, vol. i. This section was extended to loans to the London School Board by the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), sec. 58.

32 & 33 Vict.  
c. 102.

The board may lend and the managers may borrow money in pursuance of this section for the purpose of repaying any loan due at the passing of this Act from the said managers.

The board and the said managers may execute all such deeds and documents and do all such acts as may be necessary or expedient for carrying this section into effect.

Limit of  
borrowing  
powers.

**38.** The *board* (*p*) shall not borrow exclusively of any amount borrowed for the purposes of a loan to the managers of the Metropolitan Asylum District an amount which, together with the amount actually owing by them at the passing of this Act, after deducting the market value at the date of the passing of this Act of all sinking funds created in pursuance of any of the Acts mentioned in the first schedule to this Act, and remaining at that date in the hands of the board, exceeds in the whole ten million pounds sterling actually received by them (*p*); provided that this shall not prevent the *board* (*p*) from raising any money under the provisions of this Act for the purpose of paying off securities granted before the passing of this Act, and all moneys so raised shall be duly applied by the *board* (*p*) accordingly.

Payment of  
dividends.

**39.** The dividends on all consolidated stock shall be paid on such days as may be from time to time fixed by the *board* (*p*) with the approval of the Treasury (*r*).

Appointment  
of a receiver in  
certain cases.

**40.** Any person or body corporate entitled to any consolidated stock or to any security granted by the *board* (*p*) may, if default be made for a period of not less than two months after demand in writing in the payment of dividend on such stock or of interest on any such security, apply to the Court of Chancery in a summary way for the appointment of a receiver, and the Court of Chancery may, if the court think fit, on such application appoint a receiver on such terms and conditions, and with such powers, as the court think fit. Such person shall have the same power of collecting and receiving and applying all moneys liable to be carried under this Act to the consolidated loans fund, and of assessing and raising the metropolitan consolidated rate for the purpose of obtaining such moneys as the *board* (*p*) or any officer thereof may have, and shall apply all such moneys, after payment of expenses and costs, under the direction of the court, for the purposes of and in conformity with this Act. The court may at any time discharge such receiver, and shall have full jurisdiction over such receiver, and the applicant and all persons and bodies interested in the acts of the receiver, in the same manner and to the same extent as if a suit had been duly instituted for the administration of the affairs of the board and a receiver had been appointed in such suit.

The Lord Chancellor of Great Britain, with the advice and assistance of the Lords Justices of the Court of Appeal in Chancery, the Master of the Rolls, and the Vice-Chancellors, or any two of those judges, may from time to time make general orders for the regulation of the practice of the Court of Chancery under this section.

Moneys  
received by the  
*board* (*p*) to be  
paid into bank  
to their  
account.

**41.** All sums of money, bills, and drafts which are received by the *board* (*p*) under the provisions of this Act shall from time to time, within two days after the same have been received, or within two days after any bill has been accepted, completed, and perfected, if the same is not accepted, completed, and perfected at the time it is received, be paid by the board into the hands of some bank to be appointed by the *board* (*p*) with the approval of the Treasury (*r*), for which the receipt of one of the cashiers or other officers of such bank shall be a sufficient discharge; and all such moneys, bills, and drafts so to be paid as aforesaid shall from time to time be placed to the account of the board with such bank, and shall be applied and disposed of by the board for and towards the several purposes to which the same are by law applicable.

(*p*) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8) and (9), *ante*.

(*g*) **Limit of borrowing powers.**—The limit imposed by this section has been constantly exceeded under the powers conferred by various Acts, e.g., the Tramways Act, 1870, sec. 21, *post*, and the Met. Bd. Wks., and County Council's (Money) Acts.

(*r*) **Approval of Treasury.**—The approval of the Treasury is not required as respects stock issued after the passing of the Lon. Coun. Council. (Money) Act, 1896. *Ib.* sec. 23, *post*.

42. A person or body corporate purchasing any consolidated stock, or advancing money to the *board (s)* on the security of such stock, shall not be bound to see or inquire whether such stock is created or such advances are required for the purposes of the Acts mentioned in the first schedule to this Act, or is or are within the borrowing powers of the *board (s)*, or otherwise in accordance with the provisions of this Act, or any regulations made thereunder, and shall not be prejudiced by the same not being so, and shall not be bound to see to or inquire into the application of the money or any part of the money arising from such stock or advances, or be in any way responsible for the non-application thereof, and shall not be bound to inquire whether the *board (s)* so raising money, or any meeting thereof, was properly constituted or convened, or that the proceedings at any meeting of such *board (s)* were legal or regular.

32 & 33 Vict.  
c. 102.

Exemption of purchasers of stock from inquiries into application of money, regularity of proceedings, &c.

43. The approval, sanction, or certificate of the Treasury, where required under this Act, may be signified by the signature of any officer appointed by them for the purpose, and shall, until the contrary is proved, be deemed to have been given, and the holder of consolidated stock shall not be prejudiced by reason of the absence of any such approval, sanction, or certificate.

Approval of Treasury.

44. Where the *board (s)* sell or lease or otherwise dispose of to any person or body corporate any land, rents, or property charged under the provisions of this Act as security for any consolidated stock, such land, rents, and property shall in the hands of such person or body corporate be absolutely freed of every such charge, and such person or body corporate shall not be bound to see to or inquire into the application of the money arising from such sale to the consolidated loans fund or otherwise in manner directed by this Act, or be in any way responsible for the non-application thereof.

Purchasers of land to be freed from charges.

45. Nothing in this Act shall affect any power or duty of the *board (s)* to sell, lease, or otherwise dispose of land, rents, or property belonging to them, or to apply the moneys in the nature of capital arising from such sale, lease, or disposition, in discharge of such liabilities and securities as are a charge on the same in priority to the charge created by this Act, or affect the claim of any person or body corporate under any of the Acts mentioned in the first schedule to this Act, or otherwise existing at the passing of this Act, to such moneys or any part thereof.

Power of board to sell, &c. land.

46. The *board (s)* may, in lieu of any portion of consolidated stock authorised to be created under this Act, create for the like purpose terminable annuities, to be called metropolitan annuities, and to be granted at such rate of interest, on such terms, subject to such conditions, and terminable after such number of years as the Treasury may before the creation thereof from time to time approve; and throughout this Act the term "stock" shall be construed to include annuities so created, and all the provisions of this Act shall be construed accordingly, subject to the following qualification; namely,

Creation by board of annuities.

- (1) The term "dividend" shall be construed to mean the portion of the annuity which represents interest.
- (2) The term "nominal amount of stock" shall be construed to mean the capital value of the annuity at the time when such nominal amount is required to be ascertained, such capital value to be calculated on the same principles as the calculation made at the time of its creation.
- (3) The term "redeeming stock" and terms referring thereto shall be construed to mean paying the portion of instalments of any annuity which represents capital.
- (4) Instalments of an annuity shall be paid on such days as may from time to time be fixed by the *board (s)* with the approval of the Treasury.
- (5) An appointment of a receiver may be made where one or more of the applicants happen to be entitled partly to stock and partly to annuities, or where one or more of the applicants happen to be entitled to stock and one or more to annuities, as well as where he or they are entitled to stock alone or annuities alone.
- (6) Where power is given by this Act to create stock, or to lay out the consolidated loans fund in the purchase of stock or to convert any security

(s) *Met. Bd. Wks.*—Now the London County Council. *Loc. Govt. Act, 1888*, sec. 40 (8) and (9), *ante*.



32 & 33 Vict  
c. 102.

Saving rights  
of holders of  
existing  
securities.

into stock, or to invest in or advance money on the security of stock, such creation, purchase, conversion, investment, or advance may be of, in, into, or on the security of annuities only or partly annuities and partly stock.

(7) [*Rep. by 46 & 47 Vict. c. 39. Statute Law Revision.*]

47. Nothing in this Act shall affect the security or rights of any person or body corporate who may, before the passing of this Act, have advanced money to the *board (t)* for the purposes of the Acts mentioned in the first schedule to this Act, or who may for the time being hold any securities granted by the *board (t)* under those Acts before the passing of this Act, so long as such persons or body corporate have not been paid the principal and interest due in respect of such advances and securities, or made an arrangement for the conversion of such security under this Act; and nothing in this Act shall prejudice or affect the guarantee given by the Treasury before the passing of this Act for the payment of the principal and interest of such securities; and the Treasury and the *board (t)* shall respectively during the same period (whenever so required by the holders of such securities) apply the improvement fund and the funds and moneys under the control of the *board (t)* in such manner, and perform all such acts and exercise all such powers, and, if necessary, levy the same rates and assessments as they would have been required to do for the benefit and security of the holders of such securities if this Act had not passed:

Provided, that where the repayment of the sums borrowed is made by the security dependent on the state of the funds charged with such repayment, and no time has been expressly limited by the security for the payment of the money advanced to the *board (t)* thereon, the holder of such security shall not be entitled to have the amount secured thereby paid to him at any earlier time than if this Act had not passed, or to have any larger proportion of the rate or fund which is charged with the same raised or applied, than he would have been entitled to have raised or applied, if this Act had not passed, that is to say, than the proportion which the amount of his security bears to the total amount of securities charged on that rate or fund before the passing of this Act, and having the same rank as to priority, but the *board (t)* may at any time with his consent repay out of the consolidated loans fund the principal money due on the security.

Uncompleted  
contracts for  
loans.

48. Where at the passing of this Act the *board (t)* have entered into any contract for any loan, with or without the guarantee of the Treasury thereon, and the whole of such loan has not been paid or the securities therefore have not been granted, for the purposes of this Act, such loan shall be deemed to be actually owing at the date of this Act and to have been advanced, charged, and secured according to the terms of such contract, and the guarantee of the Treasury (if given), to have been given, and the securities for such loan to have been granted and issued before the passing of this Act.

Annual return  
to be laid  
before  
Parliament.

49. On or before the first of June in every year the *board (t)* shall prepare a return, in such form as may be from time to time directed by the Treasury, showing up to the twenty-fifth of March preceeding the amount of consolidated stock, and the application of the money raised by such stock, and the sums carried to and the application of the consolidated loans fund, and such other particulars respecting their loan transactions, and such estimate of the expenditure of the board for all purposes for the year commencing on such twenty-fifth of March, as the Treasury may from time to time require, and such return shall be laid before both Houses of Parliament on or before the said first of June, if Parliament be then sitting, and if not within ten days after the next meeting of Parliament.

50. [*Provisions repealed in third schedule. Rep. by 46 & 47 Vict. c. 39. Statute Law Revision.*]

(t) *Met. Bd. Wks.*—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8) and (9), *ante*, vol. i.

SCHEDULES.

32 & 33 Vict.  
c. 102.

FIRST SCHEDULE.

ACTS AUTHORISING LOANS.

| Date. | Title. |
|-------|--------|
|-------|--------|

PART I.—GENERAL IMPROVEMENT ACTS.

|                                 |                                                                               |
|---------------------------------|-------------------------------------------------------------------------------|
| 18 & 19 Vict. c. 120 .....      | The Metropolis Management Act, 1855.                                          |
| 19 & 20 Vict. c. 112 .....      | The Metropolis Management Amendment Act, 1856.                                |
| 25 & 26 Vict. c. 102 .....      | The Metropolis Management Amendment Act, 1862.                                |
| 20 & 21 Vict. ch. cxv. ....     | Covent Garden Approach and Southwark and Westminster Communication Act, 1857. |
| 20 & 21 Vict. ch. cl. ....      | The Finsbury Park Act, 1857.                                                  |
| 21 & 22 Vict. ch. xxxviii ..... | Victoria Park Approach Act, 1858.                                             |
| 27 & 28 Vict. ch. iv. ....      | The Southwark Park Act, 1864.                                                 |
| 28 & 29 Vict. ch. ciii.....     | Whitechapel and Holborn Improvement Act, 1865.                                |
| 29 & 30 Vict. ch. cl. ....      | Kensington Improvement Act, 1866.                                             |
| 31 & 32 Vict. ch. vii. ....     | Marylebone (Stingo Lane) Improvement Act, 1868                                |

PART II.—MAIN DRAINAGE ACTS.

|                            |                                                                                                                                     |
|----------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| 21 & 22 Vict. c. 104 ..... | The Metropolis Management Amendment Act, 1858.                                                                                      |
| 26 & 27 Vict. c. 68 .....  | The Metropolitan Main Drainage Extension Act, 1863.                                                                                 |
| 28 & 29 Vict. c. 19.....   | An Act to extend the period for borrowing the sum authorised to be raised under the Metropolitan Main Drainage Extension Act, 1863. |

PART III.—FIRE BRIGADE ACT.

|                             |                                          |
|-----------------------------|------------------------------------------|
| 28 & 29 Vict. c. 190. - - - | The Metropolitan Fire Brigade Act, 1865. |
|-----------------------------|------------------------------------------|

PART IV.—EMBANKMENT ACTS.

|                                |                                                                     |
|--------------------------------|---------------------------------------------------------------------|
| 25 & 26 Vict. c. 93 .....      | The Thames Embankment Act, 1862.                                    |
| 26 & 27 Vict. c. 45 .....      | The Metropolis Improvement Act, 1863.                               |
| 26 & 27 Vict. c. 75 .....      | The Thames Embankment Act, 1863.                                    |
| 27 & 28 Vict. ch. cxxxv. ....  | Thames Embankment Amendment Act, 1864.                              |
| 27 & 28 Vict. c. 61 .....      | The Thames Embankment and Metropolis Improvement (Loans) Act, 1864. |
| 31 & 32 Vict. c. 43 .....      | The Thames Embankment and Metropolis Improvement (Loans) Act, 1868. |
| 31 & 32 Vict. ch. cxi.....     | The Thames Embankment (North and South) Act, 1868.                  |
| 31 & 32 Vict. ch. cxxxv. ....  | The Thames Embankment (Chelsea) Act, 1868.                          |
| 32 & 33 Vict. ch. cxxxiv. .... | The Park Lane Improvement Act, 1869.                                |

SECOND SCHEDULE.

FORMS OF TRANSFER.

I, *A.B.*, of , in consideration of the sum of pounds paid to me by *C.D.* of , do hereby transfer to the said *C.D.*, his executors, administrators, and assigns, the sum of £ metropolitan consolidated stock [*or annuities*] standing in my name in the books kept of such stock [*or annuities*], and all my property, right, and interest in and to the same and the dividends thereon [*or the instalments thereof*].

In witness whereof, I have hereunto set my hand this  
day of one thousand eight hundred and

*A.B.* (L.S.)

32 & 33 Vict. I, C.D., do hereby accept the above-named sum of £ stock  
c. 102. [or annuities], and will hold the same subject to the same conditions on which  
the said transferor held the same.  
In witness whereof, I have hereunto set my hand this  
day of one thousand eight hundred and C.D. (L.S.)

## THIRD SCHEDULE.

## ENACTMENTS REPEALED.

[*Rep. by 46 & 47 Vict. c. 39. Statute Law Revision.*]

## METROPOLITAN BOARD OF WORKS (LOANS) ACT, 1870.

## [33 &amp; 34 Vict. c. 24.]

Short titles and  
construction.

1. This Act may be cited as the Metropolitan Board of Works (Loans) Act, 1870, and shall have effect as one Act with The Metropolitan Board of Works (Loans) Act, 1869, in this Act referred to as the principal Act; and the principal Act and this Act may be cited together as The Metropolitan Board of Works (Loans) Acts, 1869 and 1870.

2. [*Rep. by 46 & 47 Vict. c. 39. Statute Law Revision.*]

3—4. [*Composition for stamp duty on transfers of stock and annuities. Rep. and replaced by Stamp Act, 1891 (54 & 55 Vict. c. 39), secs. 115 and 123. See note (n), ante, p. 1001.*]

Exemption of  
transfers from  
stamp.

5. In consideration of the provisions for composition in this Act contained, transfers of metropolitan consolidated stock issued or to be issued, and stock certificates in respect thereof, and transfers of metropolitan annuities, are hereby, notwithstanding anything in the principal Act, exempted from stamp duty.

Payment of  
composition,  
and recovery  
thereof.

6. All sums payable by the Metropolitan Board of Works under this Act by way of composition for stamp duty shall be paid out of money raised or to be raised by the issuing of metropolitan consolidated stock, or by the granting of metropolitan annuities; and the same shall be recoverable as stamp duties.

Amendment of  
section 11 of  
former Act.

7. Section eleven of the principal Act shall have effect as if in paragraph (1) thereof "transferor" were substituted for "transferee."

Alteration of  
reference as to  
stock  
certificates.

8. In the event of any Act being passed in the present session of Parliament containing provisions in substitution for The Stock Certificate Act, 1863, section sixteen of the principal Act shall have effect as if the substituted provisions were referred to in that section in lieu of The Stock Certificate Act, 1863 (*u*).

## METROPOLITAN BOARD OF WORKS (LOANS) ACT, 1871.

## [34 &amp; 35 Vict. c. 47.]

Short titles.  
Act to be  
construed with  
Acts herein  
named.

1. This Act may be cited as the Metropolitan Board of Works (Loans) Act, 1871, and shall be construed and have effect as one Act with The Metropolitan Board of Works (Loans) Act, 1869, in this Act referred to as the principal Act; and the principal Act and The Metropolitan Board of Works (Loans) Act, 1870, and this Act may be cited together as the Metropolitan Board of Works (Loans) Acts, 1869 to 1871.

Main drainage  
securities.

2. In this Act "main drainage securities" means securities granted by the board under the Main Drainage Acts (*r*) before the passing of the principal Act, and for the time being remaining undischarged.

(*u*) **Stock Certificate Act, 1863.**—See Met. Bd. Wks. (Loans) Act, 1869, sec. 16 and note thereto, *ante*.

(*r*) **Main Drainage Acts.**—See Met. Bd. Wks. (Loans) Act, 1869, sec. 2 and sched. 1, *ante*.



3. When from time to time the *board* (*y*) by means of money raised under the principal Act by creation of stock or otherwise, duly provide for the principal accruing due and payable in any year in respect of main drainage securities, then and in every such case, notwithstanding anything in section twenty-two or in any other provision of the principal Act, the following consequences shall ensue :

34 & 35 Vict.  
c. 47.

Amended provisions respecting main drainage securities and rate.

(1) It shall not be necessary for the *board*, in or for any year in respect of which due provision is so made, to include in any estimate or precept for the *consolidated rate* (*z*) as a sum required for the purposes of the Main Drainage Acts the amount of principal so provided for, or to raise the same by means of the *consolidated rate* (*z*).

(2) Any amount of principal not so provided for in or for any year with the interest for the same year on the main drainage securities shall be charged on the consolidated rate in lieu of the amount which would have been raised by the levying of the main drainage rate for the same year, ascertained as directed in section twenty-two of the principal Act.

4. Nothing contained in and no act or omission under the authority of this Act shall affect the security or rights of any persons or body corporate who before the passing of the principal Act advanced money to the *board* for the purposes of the Main Drainage Acts (*a*), or who, for the time being, hold any main drainage securities, as long as such persons or body corporate have not been paid the principal and interest due in respect of such advances and securities, or made an arrangement for the conversion of such securities under the principal Act.

Saving for holders of existing securities.

5. Nothing contained in and no act or omission under the authority of this Act shall prejudice or affect the guarantee given by the Treasury for the payment of the principal and interest of any main drainage securities.

Saving for guarantee.

6. The *board* (*y*) shall from time to time, as long as any main drainage securities remain undischarged, ascertain the amount which would have been raised by the main drainage rate, and also, whenever so required by the holders of such securities, apply the funds and moneys under the control of the *board* (*y*) in such manner, and perform all such acts, and exercise all such powers, and if necessary levy the same rates and assessments, as they would have been required to do for the benefit and security of the holders of such securities if this Act had not been passed; and any principal or interest or account of main drainage securities due in respect of any year shall, if not otherwise raised and paid, be raised as part of the *consolidated rate* (*z*) for the next following year.

Continuance of duty of board and charge on subsequent year.

7. The word "or" in the first line of section thirty-four of the principal Act shall be deemed to be omitted.

Verbal amendment of principal Act.

8. The *board* (*y*) may from time to time exercise the power conferred on them by section thirty-four of the principal Act, of creating consolidated stock for the purpose of the conversion of any such security as in that section mentioned, by substituting consolidated stock for main drainage securities, or other such securities as in that section mentioned, although the securities for which stock is so substituted have been actually paid off before the creation of the stock substituted for the same otherwise than out of the consolidated loans fund.

Power to substitute stock for securities paid off in certain cases.

9. All consolidated stock created before or after the passing of this Act for any of the purposes of section thirty-four of the principal Act (*b*) shall, notwithstanding anything in the principal Act or this Act, be purchased or redeemed and cancelled within sixty years from the time of the first creation by the *board* (*y*) of any consolidated stock.

Repayment of existing debt within sixty years.

# 10. [Rep. by 46 & 47 Vict. c. 39. Statute Law Revision.]

(*y*) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8) and (9), *ante*, vol. i.

(*z*) **Consolidated rate.**—This rate is superseded by the county rate. Loc. Govt. Act, 1888, secs. 3 (1) and 40 (9), *ante*, vol. i.

(*a*) **Main Drainage Acts.**—See note (*x*) on page 1010.

(*b*) **Principal Act**, i.e., the Met. Bd. Wks. (Loans) Act, 1869, *ante*.

34 & 35 Vict.  
c. 47.

Continuance of  
limit of borrow-  
ing powers.

Closing of  
transfer books  
for dividend.

11. Nothing in this Act, except the provision respecting borrowing by vestries and district boards, shall affect the limitation imposed on the borrowing power of the *board* (c), by section thirty-eight of the principal Act (d) or any other enactment.

12. The books for the transfer of consolidated stock created by the *board* (c) may be closed on any day in the month next preceding that in which the dividends on that stock are payable, but so that the books be not at any time so closed for more than fifteen days; and the persons and bodies corporate who on the day of such closing are inscribed as holders of consolidated stock shall, as between them and their transferees of consolidated stock, be entitled to the dividend thereon becoming payable next after that day; and this section shall have effect in lieu of section twelve of the principal Act.

13. [Power for trustees to take metropolitan stock. *Rep. by Trust Investment Act*, 1889 (52 & 53 Vict. c. 32), sec. 8. See now *Trustee Act*, 1893 (56 & 57 Vict. c. 53), sec. 1 (f).]

14. [Rep. by 46 & 47 Vict. c. 39. *Statute Law Revision*.]

Description of  
accounts at  
Bank of  
England for  
main drainage  
and other  
purposes.

15. Any account required by the Main Drainage Acts (e) to be opened in the books of the Bank of England, and any account required by any other Act or by the Treasury to be so opened for any purpose connected with the duties of the *board* (c) shall, if the Treasury so direct, be opened and kept under the official designations of the permanent secretary of Her Majesty's Treasury and the chairman of the *Metropolitan Board of Works* (c) for the time being, jointly; and on a vacancy in the office of either of those officers, the balance remaining to the credit of any such account shall vest in his successor in office jointly with the other, and during the vacancy shall not be disposed of by the other, and in case of a vacancy by death shall not constitute assets of the deceased or be in any manner subject to the control of his legal representatives; and the Treasury shall from time to time direct in what manner any such account shall be drawn on, and what evidence of the title of any person to draw thereon shall be sufficient; and the Bank of England are hereby indemnified in respect of anything done or permitted under this section.

16. [Rep. by 56 & 57 Vict. c. 54. *Statute Law Revision*.]

17. [Rep. by 46 & 47 Vict. c. 39. *Statute Law Revision*.]

18. [Rep. by 56 & 57 Vict. c. 54. *Statute Law Revision*.]

## METROPOLITAN BOARD OF WORKS (LOANS) ACT, 1875.

### [38 & 39 Vict. c. 65.]

Power for  
board to  
expend for  
incidental  
charges on  
consolidated  
stock.

8. The *board* (c) may from time to time expend for composition for stamp duty (f), charges payable to the Bank of England, costs of advertising, brokers commission, and other expenses incidental to the raising of money by consolidated stock, such amount as they require for that purpose, and as the Treasury approve, and in order to raise the same may from time to time create consolidated stock.

Future loan  
bills to have  
tables of infor-  
mation accom-  
panying.

12. Where the *board* (c) are desirous of obtaining a further Act empowering them to raise money, they shall cause the bill for the same, as proposed to be submitted to Parliament, to be accompanied with tables giving such information

(c) *Met. Bd. Wks.*—Now the London County Council. *Loc. Govt. Act*, 1888, sec. 40 (8) and (9), *ante*, vol. i.

(d) *Principal Act*.—See note (b) on page 1011.

(e) *Main Drainage Acts*.—See *Met. Bd. Wks. (Loans) Act*, 1869, sec. 2 and sched. 1, *ante*.

(f) *Composition for stamp duty*.—See *Met. Bd. Wks. (Loans) Act*, 1869, sec. 18 and note thereto, *ante*.

as the Treasury require for the purpose of enabling a comparison to be made between the rateable value of the Metropolis and the liabilities of the *board (g)*.

38 & 39 Vict.  
c. 65.

13. The *board (g)* shall every year frame and deliver to the Treasury returns showing—

Returns  
respecting  
money raised  
and valuation,  
liabilities, &c.  
of parishes and  
other districts.

(i) All money raised by the *board (g)* under this or any further Act for purposes mentioned in this Act;

(ii) In relation to every parish, district, union, or place in respect whereof a loan is obtained from the *board (g)* under this Act or any further Act;

(1) the annual rateable value of the property therein;

(2) as nearly as may be, the actual indebtedness of each parish, district, union, or place in respect of loans previously contracted.

The Treasury shall cause every such return to be laid before both Houses of Parliament.

14. Where application for a loan is made to the *board (g)* by any body to which the *board (g)* are authorised by this or any other Act to lend money, the *board (g)* may, as a condition precedent to the making of the loan, and to the payment from time to time of any money as part thereof, require that body to frame and deliver to the *board (g)* from time to time returns giving, in relation to the parish, district, union, or place in respect whereof the loan is applied for, such information respecting the financial condition of the body applying as the *board (g)* think expedient.

Power for  
board to  
require returns  
from bodies  
borrowing.

\* \* \* \* \*

# METROPOLITAN BOARD OF WORKS (MONEY) ACT, 1883 (*h*).

## [46 & 47 Vict. c. 27.]

\* \* \* \* \*

18. With respect to the issue of metropolitan bills (*i*) the following provisions shall have effect;

Mode of issue  
of metropolitan  
bills.

(1) Metropolitan bills shall be issued under the authority of a warrant sealed by the *board (g)* and countersigned on behalf of the Treasury (*k*).

(2) Each metropolitan bill shall be for the amount directed by the *board (g)*:

(3) Each metropolitan bill shall be sealed by the *board (g)* the sealing being attested by the clerk in his own name.

19. The *board (g)* may from time to time, with the consent of the Treasury (*k*), make, and when made rescind, alter, and add to, regulations for carrying into effect the provisions of this Act with respect to metropolitan bills, and in particular—

Regulations to  
be made by the  
board as to  
issue, cancella-  
tion, &c. of  
metropolitan  
bills.

(1) For regulating (subject to the provisions of this Act) the preparation, form, mode of issue, mode of payment, and cancellation of metropolitan bills:

(2) For regulating the issue of a new metropolitan bill in lieu of one defaced, lost, or destroyed:

(3) For preventing, by the use of counterfoils or of a special description of paper, or otherwise, fraud in relation to the metropolitan bills:

(*g*) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8) and (9), *ante*.

(*h*) **Application of Act.**—Secs. 18, 19, 21, and 22 of this Act are annually extended and applied to bills issued by the County Council under the provisions of their (Money) Acts.

(*i*) **Metropolitan bills.**—Sec. 16 of this Act enacted that “A bill under this Act (in this Act referred to as a ‘metropolitan bill’) shall be a bill in form prescribed by a regulation made in pursuance of this Act for the payment of the principal sum named therein, and in the manner and at the date therein mentioned, so that the date be not less than three months nor more than twelve months from the date of the bill.” For further and amending provisions regulating the issue of metropolitan bills, see the Lon. Coun. Council. (Money) Acts, 1891, secs. 16—20, and 1896, sec. 22, *post*.

(*k*) **Treasury.**—As respects all stock issued after the passing of the Lon. Coun. Council. (Money) Act, 1896, the consent, sanction, or approval of the Treasury, or the counter-signature on behalf of the Treasury, is not required. *Ib.*, sec. 23, *post*.



46 & 47 Vict.  
c. 27.

(4) For the proper discharge to be given upon the payment of a metropolitan bill.

Every regulation purporting to be made in pursuance of this section shall be deemed to be within the powers of this Act, and shall have effect as if it were enacted in this Act.

\* \* \* \* \*

Application of certain provisions of 24 & 25 Vict. c. 98 to metropolitan bills.

21. Sections eight, nine, ten, and eleven of the Forgery Act, 1861 (*l*) (which sections relate to the forgery of and other frauds relating to Exchequer bills), shall apply to the metropolitan bills, and shall have effect as if "Exchequer bill" in those sections included "metropolitan bill."

Arrangement with bank as to issue, &c. of metropolitan bills.

22. The *board* (*m*) may enter into such arrangements with any bank approved by the Treasury (*n*) for carrying into effect the provisions of this Act with respect to the issue of metropolitan bills, and to the payment of the principal sum named therein, and to all matters relating thereto, and for the proper remuneration of such bank with reference thereto, as they may think proper and as may be approved by the Treasury (*k*).

\* \* \* \* \*

## METROPOLITAN BOARD OF WORKS (MONEY) ACT, 1885 (*o*).

### [48 & 49 Vict. c. 50.]

\* \* \* \* \*

Interpretation of words, &c. in following provisions as to unclaimed stock, dividends, and redemption moneys.

27. In the following provisions of this Act relating to unclaimed stock, unclaimed dividends, and unclaimed redemption moneys, the words, terms, and expressions following shall have the meanings hereinafter assigned to them respectively, that is to say:

"Stock" shall mean any metropolitan consolidated stock heretofore created by the *board*, or which the *board* (*m*) may hereafter be authorised to create, and includes any share or interest therein;

"The bank" means the persons or body corporate who keep the books for the transfer of stock;

"The books of the bank" means the books for the transfer of stock.

Provided, that in the event of the Bank of England ceasing to be the bank within the meaning hereinbefore assigned to the same term, the terms governor and deputy-governor of the Bank of England shall be construed to mean respectively manager and assistant-manager of the bank, and the terms accountant-general and deputy accountant-general of the Bank of England shall be construed to mean respectively the secretary and assistant-secretary of the bank.

Transfer of unclaimed stock to board.

28. All stock, no dividend whereon is claimed for ten years or more (except where payment of dividend has been restrained by a court of justice) shall be transferred in the books of the bank to the *board* to an account to be entitled "The Metropolitan Board of Works (*m*) Unclaimed Stock Account."

List of names from which stock transferred.

29. Immediately after every such transfer the name in which the stock stood immediately before the transfer, the residence and description of the parties, the

(*l*) **Forgery Act, 1861.**—Sec. 8 makes forging or altering, or offering, knowing the same to be forged or altered, any Exchequer bill, bond, or debenture a felony punishable with penal servitude for life. Secs. 9 and 10 render making or possessing plates, paper, &c., in imitation of those used for Exchequer bills, bonds, or debentures, a felony punishable with seven years' penal servitude. Sec. 11 makes purchasing or knowingly receiving or possessing any paper, plates, or dies, made for the purpose of Exchequer bills, &c., a misdemeanour punishable with three years imprisonment with or without hard labour. See also Met. Bd. Wks. (Loans) Act, 1869, sec. 19, and note thereto, *ante*.

(*m*) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8) and (9), *ante*, vol. i.

(*n*) **Treasury.**—See note (*k*) on page 1013.

(*o*) **Application of Act.**—Secs. 27 to 43 of this Act are incorporated in all the County Council's (Money) Acts up to 1896, inclusive.

amount transferred, and the date of transfer shall be entered in a list to be kept for the purpose by the bank. The bank shall during the six months next previous to such transfer, give notice in writing to the stockholder at his registered address, of the impending transfer to the *Metropolitan Board of Works* (*p*).

48 & 49 Vict.  
c 50.

30. Every such transfer shall be made and signed by the accountant-general or the deputy accountant-general of the Bank of England, and shall be as effectual to all intents as if signed by the person in whose name the stock then stands.

Mode of  
transfer.

31. Where stock is transferred under this Act, all dividends accruing thereon after the transfer shall be paid to the *board* (*p*), and shall be from time to time carried to the consolidated loans fund, and may be applied by the *board* (*p*) to any of the purposes to which capital moneys forming part of the said fund are applicable: Provided always that the consolidated loans fund shall thereafter be charged with the payment of the claims of the persons entitled to any of the moneys carried to the said fund under this section.

Subsequent  
dividends on  
stock trans-  
ferred to be  
invested, &c.

32. The governor or the deputy-governor of the Bank of England may direct the accountant-general or the deputy accountant-general of the Bank of England to re-transfer any stock transferred under this Act to any person showing his right thereto to the satisfaction of the governor or the deputy-governor of the Bank of England, and to pay the dividends due thereon as if the same had not been transferred or paid to the *board* (*p*), and all moneys so paid on account of such dividends shall forthwith after notice of the payment of the same be repaid by the *board* (*p*) to the bank.

Re-transfer  
and payment  
to person  
showing title.

But in case the governor or the deputy-governor of the Bank of England is not satisfied of the right of any person claiming to be entitled to any such stock or dividends, the claimant may by petition in a summary way state and verify his claim to the Chancery Division of the High Court of Justice.

The petition shall be served on the *board* (*p*), and the court shall make such order thereon (either for re-transfer of the stock to which the petition relates, and payment of the dividends accrued thereon or otherwise) and touching the costs of the application as to the court seem just.

All costs and expenses incurred by or on behalf of the *board* (*p*) in resisting or appearing on any such petition, if not ordered by the court to be paid out of the stock and dividends thereby claimed, shall be paid by the *board* (*p*) out of the consolidated loans fund.

Where any re-transfer or payment is made to any such claimant, either with or without the authority of the court, the bank shall give notice thereof to the *board* (*p*) within three days after making the same.

33. Stock exceeding the sum of twenty pounds shall not be re-transferred from the *board* (*p*) under this Act, nor shall dividends exceeding twenty pounds in the whole be paid to a claimant under this Act until three months after application made for the same nor until public notice has been given thereof, as in this Act is provided.

Three months'  
notice before  
re-transfer or  
payment.

34. The bank shall require the applicant to give such public notice as they think fit advertisement in one or more newspapers circulating in London and elsewhere.

Advertise-  
ments before  
re-transfer or  
payment.

Every such notice shall state the name, residence, and description of the person in whose name the stock stood when transferred to the board, the amount thereof, the name of the claimant, and the time at which the re-transfer thereof and payment of dividends will be made if no other claimant sooner appears and makes out his claim.

Where any such re-transfer or repayment is ordered by the Chancery Division of the High Court of Justice, the notice shall also state the purport of the order.

35. At any time before re-transfer of stock or payment of dividend as aforesaid to a claimant, any person may apply to the Chancery Division of the High Court of Justice, by motion or petition, to rescind or vary any order made for re-transfer or payment thereof.

Application to  
court to  
rescind order.

48 & 49 Vict.  
c. 50

Bank not  
responsible to  
second  
claimant.  
Order in  
favour of  
second  
claimant  
showing title.

**36.** Where any stock or dividends having been re-transferred or paid as aforesaid to a claimant by the bank, is, or are afterwards claimed by another person, the bank and their officers shall not be responsible for the same to such other claimant, but he may have recourse against the person to whom the re-transfer or payment was made.

**37.** If in any case a new claimant establishes his title to any stock or dividends re-transferred or paid to a former claimant, and is unable to obtain transfer or payment thereof from the former claimant, the Chancery Division of the High Court of Justice shall, on application by petition by the new claimant verified as the court requires, order the *board (q)* to pay him such moneys in respect of the stock and for dividend as the court thinks just.

Such payment shall be made out of the consolidated loans fund or from other money at the disposal of the *board (q)*.

Payment of  
unclaimed  
dividends to  
County  
Council.

**38.** Where any dividend accrued due on any sum of stock is not claimed for ten years or more, the dividend so unclaimed and all dividends subsequently accrued due in respect of the same sum of stock and unclaimed shall be paid to the *board (q)*.

All such dividends shall be held and dealt with in like manner as nearly as may be as the dividends accruing on stock transferred to the *board (q)* under this Act after the transfer, and this Act shall accordingly have effect in relation thereto, and to the application thereof, and claims to the same as if the foregoing provisions of this Act with respect to the dividends accruing on stock transferred to the *board (q)* under this Act were repeated and in terms made applicable thereto respectively.

Unclaimed  
redemption  
money.

**39.** All principal sums of money payable to any holder of stock redeemed by the *board (q)* which shall not be claimed for ten years after the day on which the same became due to such holder or for ten years after any dividend which accrued on such stock shall have been last claimed (except where payment of such principal sum or dividend shall have been restrained by a court of justice) shall together with all dividends due thereon be paid to the *board (q)*, and the receipt of the cashier of the *board (q)* for any such moneys shall be as effectual to all intents as if signed by the person in whose name the stock redeemed then stands, and thereupon the stock so redeemed shall be cancelled and all dividends and interest in respect thereof shall be extinguished, and all such moneys when received by the *board (q)* shall be from time to time carried to the consolidated loans fund and may be applied by the *board (q)* to any of the purposes to which capital moneys forming part of the said fund are applicable. Provided always that the consolidated loans fund shall thereafter be charged with the payment of the claims of the persons entitled to any of the moneys carried to the said fund under this section.

Investigation  
of circum-  
stances of  
unclaimed  
dividends.  
Allowance of  
expenses to  
bank. 1

**40.** The *board (q)* may from time to time empower the bank to investigate the circumstances of any stock or dividends remaining unclaimed with a view to ascertain the owners thereof and allow to them such compensation as to the *board (q)* seems just for their trouble and expenses in that behalf.

**41.** The *board (q)* may from time to time allow to the bank a reasonable compensation for all expenses incurred by them in and about notices and advertisements directed by this Act and other services required or authorised by this Act.

Payment of  
compensation  
allowed. 2

**42.** Compensation allowed by the *board (q)* under this Act may be deducted rateably from the stock and dividends from time to time re-transferred or paid with reference to which the trouble, expenses, and services have been incurred and performed by the bank, or the same may be paid by the *board (q)* out of unclaimed stock or dividends transferred to or received by them.

Indemnity to  
bank.

**43.** The bank and the governor or the deputy-governor of the Bank of England are hereby indemnified in respect of every transfer or re-transfer of stock or payment of dividends or moneys under this Act and shall not be in any manner responsible to any person having or claiming any interest therein.

\* \* \* \* \*

(q) *Met. Bd. Wks.*—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8) and (9) *ante*, vol. i.



LONDON COUNTY COUNCIL (MONEY) ACT, 1891 (*r*).

## [54 &amp; 55 Vict. c. 62.]

\* \* \* \* \*

16. Notwithstanding anything in this Act, or in any other Act relating to the council, the council may at such times, and upon such terms as the Treasury approve (*s*), raise any part of the money which they are by this Act authorised to raise, not exceeding in the whole sum of five hundred thousand pounds (*t*), by the issue of bills under this Act.

Council may raise money by bills.

17. A bill under this Act (in this Act referred to as a "metropolitan bill" (*u*)) shall be a bill in form prescribed by regulations made in pursuance of this Act for the payment of the sum named therein in the manner and at the date therein mentioned, so that the date be not less than three nor more than twelve months from the date of the bill. Interest shall be payable in respect of a metropolitan bill at such rate and in such manner as the council with the consent of the Treasury (*s*), may direct.

Form and length of currency and interest on metropolitan bills.

18. All moneys raised by the issue of any metropolitan bills shall be paid to the council, and shall be expended by them for the purposes for which the same are by this Act authorised to be raised respectively. The principal money and interest expressed in any metropolitan bill to be payable shall be charged on the county rate, and shall be payable out of the said rate, or as regards principal out of moneys raised by the creation of consolidated stock under this Act for the purpose for which such principal money has been expended, and as regards interest out of the consolidated loans fund.

Payment and application of proceeds of metropolitan bills and charge of bills on county rate.

19. The provisions contained in sections eighteen, nineteen, twenty-one, and twenty-two of the metropolitan Board of Works (Money) Act, 1883 (*x*), with respect to metropolitan bills as defined by that Act, shall extend and apply with respect to metropolitan bills as defined by this Act, and for the purpose of such application the expressions "this Act" and "metropolitan bill" in the said sections shall be construed to mean respectively this Act and metropolitan bill as defined by this Act.

46 & 47 Vict. c. 27, ss. 18, 19, 21, 22, to apply to metropolitan bills under this Act.

20. For the repayment of the principal moneys due on metropolitan bills, the council may, by the creation of consolidated stock, raise any sum which by this Act they are authorised to apply to the purposes for which such principal money has been expended, but, save as aforesaid, the powers given to the council by this Act to raise moneys by the creation of consolidated stock shall be suspended to the extent to which moneys have been raised by the issue of metropolitan bills.

Power to create consolidated stock partially suspended while metropolitan bills authorised to be raised.

## LONDON COUNTY COUNCIL (MONEY) ACT, 1896.

59 & 60 Vict. ch. cexiv. An Act to regulate the expenditure of Money by the London County Council on Capital Account during the current Financial Period and the raising of Money to meet such expenditure. [7th August, 1896]

[Preamble.]

1. This Act may be cited for all purposes as the London County Council (Money) Act, 1896, and the London County Council (Money) Acts, 1875 to

Short title.

(*r*) **Application of Act.**—Secs. 16—20 are incorporated in all the subsequent County Council (Money) Acts up to 1896, inclusive.

(*s*) **Treasury.**—As respects all stock issued after the passing of the Lon. Coun. Counc. (Money) Act, 1896, the approval or consent of the Treasury is not required. *Ib.* sec. 23. And see further provisions contained in that section regulating the issue of bills by the County Council.

(*t*) **Five hundred thousand pounds.**—Now one million pounds. Lon. Coun. Counc. (Money) Act, 1896, sec. 22, *post*.

(*u*) **Metropolitan bills.**—Bills issued after the passing of the Lon. Coun. Counc. (Money) Act, 1896, are called "London County Bills." *Ib.* sec. 22, *post*.

(*x*) **Met. Bd. Wks. (Money) Act, 1883.**—See secs. 18, 19, 21, and 22, *ante*.

59 & 60 Vict.  
ch. cxxiv.

1895, and this Act may be cited together as the London County Council (Money) Acts, 1875 to 1896.

Construction of  
Act.

2. This Act shall, subject to the provisions thereof, be read and have effect as one with the Metropolitan Board of Works (Loans) Acts, 1869 to 1871, and the London County Council (Money) Acts, 1875 to 1895 :

But all consolidated stock created by the council shall be charged upon the county rate in substitution for the consolidated rate.

3. [*Interpretation.*]

4—11. [*These sections prescribe the amounts which the county council may expend on capital account and may lend to various bodies during the year ending 31st March, 1897, and the following six months.*]

Protection of  
council in case  
of certain  
loans.

12. Where under the authority of this or any other Act the council lend any money to any corporation, body of commissioners, public body, or persons, the exercise of whose powers of borrowing is subject to the consent of the Local Government Board, the sanction of that Board to the borrowing of such money shall in every such case be conclusive evidence that such corporation, body of commissioners, public body, or persons had, when such sanction was given, power to borrow such money (*y*).

Power to raise  
consolidated  
stock.

13. In order to raise the money for the several purposes for which the council are by this Act authorised to expend or lend money the council may from time to time create consolidated stock, and the following provisions shall have effect :—

(i) Where the council under the authority of this Act create consolidated stock to raise money to enable them to make a loan, repayable within a period not exceeding thirty years from the date of such loan, the council shall from time to time carry to the consolidated loans fund such sums as the Treasury approve as being in their opinion sufficient to redeem, within the period of thirty years from the date of the creation of such stock, or within any less period for which any such loan may be made an amount of consolidated stock equal to that so created :

(ii) Money borrowed from and lent by the council under the provisions of this Act may be made repayable either in one sum or by instalments, or by a series of equal annual or other instalments to include both principal and interest, or otherwise, as may be agreed between the council and the borrowers :

(iii) All sums received by the council in respect of interest on or principal of any loan made by them under this Act shall be carried to the consolidated loans fund (*z*) :

(iv) Where the council create consolidated stock for the purpose of any scheme made by the Metropolitan Board of Works, or the council under the Housing of the Working Classes Act, 1890 (*a*), or any enactments repealed by that Act, all moneys required for payment of dividends on and the redemption of all consolidated stock created for such purpose shall be charged to the special county account to which the expenditure for the purposes of the said Acts is chargeable :

(v) Consolidated stock for the purposes of this Act may be created by the council from time to time in such amounts and at such times only as the council shall actually require for the said purposes respectively.

New redeem-  
able consoli-  
dated stock.

14. The council may by a resolution passed before the issue of any consolidated stock created under this Act, determine that such stock shall be issued upon the terms that the council shall not be bound to redeem the same at any fixed date, but the annual sum to be carried to the consolidated loans fund under section 27 of the Metropolitan Board of Works (Loans) Act, 1869, in respect of such stock shall where the money raised by the stock is not

(*y*) **Protection of council.**—Precisely the same provisions are contained in all the Met. Bd. Wks. and County Council's (Money) Acts since 1885, inclusive.

(*z*) **Income tax.**—The county council are liable to pay income tax, without deduction, on the amount of interest they receive on account of any loan made by them, notwithstanding that they themselves have borrowed the money at interest in order to make the loan. The council cannot be treated as a trading concern, so as to bring the money they borrow on the one side and the money they lend on the other side into account. *Lon. Coun. Counc. v. Grove*, 61 J. P. 52 ; 44 W. R. 599.

(*a*) **Housing of the Working Classes Act, 1890.**—*Ante*, tit. "*Housing*," &c.

required to be repaid within a shorter period than sixty years, be calculated on the same basis as if such stock had to be redeemed at par at the expiration of sixty years from the date of the issue thereof: 59 & 60 Vict. ch. cxxiv.

All such stock shall be redeemable by and at the option of the council at par in such sums and proportions and in such order and manner, whether by drawings or otherwise, as the council may, from time to time determine, subject nevertheless to any terms and conditions expressed in any resolution for the creation or issue of such stock:

With regard to any such stock the council may, by a resolution passed at any time and from time to time with the sanction of the Treasury, determine that during any period not exceeding thirty years from the date of the resolution they will not exercise their option of redeeming the same:

Any prospectus issued by the council inviting tenders for any such stock shall state in general terms—

- (a) The period at, after, or within which, and the conditions upon which, the option of the council to redeem the same may be exercised; and
- (b) The financial provision required by statute to be made by way of sinking fund in respect of such stock. All stock created under the powers of this section shall, notwithstanding anything contained in any other Act, be called by some name to distinguish the same from metropolitan consolidated stock of any other description, and shall rank equally with all consolidated stock created under the powers of any subsequent Act, if the same be thereby declared to rank equally with consolidated stock created under the powers of this section.

15.—(1) Where the council are by this Act authorised to raise money for any purpose on capital account or to make a loan they may instead of raising such money or any part thereof by the issue of consolidated stock (and with the approval of the Treasury) employ for that purpose any money for the time being standing to the capital account of the consolidated loans fund and realise for that purpose any securities in which such money shall be at the time invested. Employment of money of consolidated loans fund.

(2) The employment by the council of such money shall be deemed to be in substitution for the exercise of the powers of the council under this Act of raising the amount of such money by means of the issue of consolidated stock.

(3) No such money shall be so employed unless provision be made in such manner as the Treasury approve for replacing the same in the consolidated loans fund, at, or before the date (if any) at which consolidated stock redeemable by means of such money is required to be redeemed, and (as regards moneys accumulated in respect of consolidated stock which is not required to be redeemed at any fixed date) for so replacing the same within such period not exceeding sixty years from the date of the employment of such money as the council with the consent of the Treasury may determine, and not exceeding the period within which the money if borrowed would be repayable.

And in every case the council shall in each year raise as part of the county rate such sum as the Treasury approve as being in their opinion a proper and sufficient contribution in respect of that year towards the replacement at or before the date or within the period aforesaid of the money employed for such purpose and for the payment of interest on the money so employed and such sums shall be carried by the council to the consolidated loans fund.

16. The power of the council under section 15 of the London Council (Money) Act, 1889 (*b*), to temporarily invest any money for the time being standing to the capital account of the consolidated loans fund in respect of stock which the council are not required to redeem at any fixed date shall only extend to any period during which by any resolution the council may have bound themselves not to exercise their opinion of redeeming such stock: Investment of money of consolidated loans fund.

And if the council at any time while they have any such money invested or available for investment require to expend money for any purpose on capital account or to make any loan under any statutory power which would otherwise involve the issue of additional stock they shall before issuing any more stock which they are not required to redeem at any fixed date employ, subject to the provisions of the last preceding section, such first-mentioned money, and if need

(*b*) **London Council (Money) Act, 1889.**—Sec. 15 is set out in note to sec. 28 of the Met. Bd. Wks. (Loans) Act, 1869, *ante*.



59 & 60 Vict.  
ch. ccxiv.

be realise for the purpose any securities in which that money is at the time invested.

Power after  
issue of stock  
to apply money  
raised by stock  
to make up  
dividends from  
fixed dates.

17. Where stock is issued under this Act subject to a condition that the money to be raised thereby shall be paid up by instalments the council may pay dividend on the total nominal amount of such stock from any date fixed at the time of issue, although the instalments or some or one of them may not have been payable until after that date. If the amount so paid by way of dividend exceed the sum which would have been payable on the portion of the stock representing the money actually paid up the difference may be paid out of the proceeds of the issue of the stock to the consolidated loans fund, but not at any time later than twelve months from the date of issue.

Conversion of  
stock.

18.—(1) The council may—

(a) for the purpose of the purchase or redemption of consolidated stock issued before the passing of this Act raise money by the issue of consolidated stock; or

(b) with the consent of the holder of consolidated stock issued before the passing of this Act convert it into another denomination of consolidated stock by issuing the latter stock in substitution for the stock formerly held by such holder (in this Act referred to as “converted stock”);

and may issue consolidated stock under this Act accordingly.

(2) The council may in the case of any conversion of stock make such reasonable payment as they think fit to the holder of such stock in connection with and for the purpose of effecting the conversion, and any such payment may be either in money or stock or partly in the one and partly in the other. Any such payment in money may be made out of moneys raised by the issue of stock or subject to the provisions of this Act out of the consolidated loans fund.

(3) Where stock is issued for the purpose of raising money to purchase or redeem or convert stock the payments into the consolidated loans fund shall be such as appear to the council with the approval of the Treasury sufficient to provide for the redemption or extinction of the new stock within the remainder of the period for the redemption of the stock so purchased, redeemed, or converted, and all stock so purchased, redeemed, or converted shall be forthwith cancelled.

(4) Where the holder of any stock is one of the persons enabled by the Lands Clauses Consolidation Act, 1845 (c), to sell land under that Act he may consent to any conversion under this section as if he were the absolute owner of the stock in question, and may accept money for such consent, and he is hereby indemnified for giving such consent, and his receipt shall be a good discharge.

(5) Where any stock is converted under this section the new stock and the dividends thereon shall be subject to the same trusts, charges, rights, discharges, and restraints as affected the stock so converted and the dividends thereon respectively, and all powers of attorney, requests as to dividends, and other documents relating to the stock so converted, and the dividends thereon, or either of them, shall apply to the new stock and the dividends thereon respectively.

(6) In any Act passed or instrument executed, whether before or after the passing of this Act, references to any stock liable to be converted in pursuance of this Act may, if the stock is so converted, be construed as references to the new stock, and in the case of any testamentary instrument, whether executed before or after the passing of this Act, any disposition which but for the passing of this Act would have operated as a specific or demonstrative bequest of any such stock shall, if the same is so converted, be construed as a specific or demonstrative bequest of such new stock, and if the same is not so converted, but is redeemed, shall be construed as a pecuniary legacy of a sum of money equal to the redemption money of the stock so redeemed.

32 & 33 Vict.  
c. 102, s. 38,  
not to extend  
to money raised  
under this Act.

19. The limitation on the borrowing power of the council contained in section 38 of the Metropolitan Board of Works (Loans) Act, 1869 (d), shall not extend to money raised by the council in conformity with and for purposes mentioned in this Act.

(c) *Lands Clauses Act, 1845.*—See note to sec. 33 of the Met. Bd. Wks. (Loans) Act, 1869, *ante*.

(d) *Met. Bd. Wks. (Loans) Act, 1869.*—*Ante*.

20. During the financial period the council shall not (except for such temporary period not exceeding six months as the Treasury may sanction) raise otherwise than in conformity with and to the extent mentioned in this Act any money under any powers of borrowing conferred upon the council, either by this Act or by any other Act. Provided always that the limitations contained in this section shall not extend to limit or control the raising of money under the authority of section 34 of the Metropolitan Board of Works (Loans) Act, 1869 (*d*), or of section 8 of the Metropolitan Board of Works (Loans) Act, 1875 (*d*), for the purposes in the said sections respectively mentioned.

21. Sections 27 to 43 of the Metropolitan Board of Works (Money) Act, 1885 (*e*), are incorporated with this Act, and shall be applicable to all stock created under the powers of this Act.

22. The provisions of the London County Council (Money) Act, 1891, with respect to metropolitan bills (*f*), shall extend and apply to the purposes of this Act with the following modifications:—

- (a) The bills shall be called "London County Bills":
- (b) The aggregate amount of bills current at any one time shall not exceed the sum of one million pounds except by the amount of bills issued shortly before any other bills fall due in order to pay off those bills:
- (c) The council may, subject to the above limit, renew bills at maturity, provided that if at the expiration of any financial year there are any bills outstanding such bills shall be regarded as forming part of the capital debt of the council, and the council shall raise as part of the county rate, and pay into the consolidated loans fund, the same sums for repayment of the sum borrowed as they would have done if the money had been raised by stock:
- (d) Where any stock is issued in order to raise money for the purpose of paying off bills the payments into the consolidated loans fund in respect of that stock shall be such as in the opinion of the council with the approval of the Treasury are sufficient to provide for the redemption or extinction of the stock within the remainder of the period within which the moneys originally raised by the bills were repayable (*g*).

23. The enactments specified in the third column of the second schedule to this Act shall, as respects all stock issued after the passing of this Act, have effect as if the consent, sanction, or approval of the Treasury, or the counter-signature on behalf of the Treasury therein mentioned, were not required.

24. [*Expenses of executing Act to be defrayed as payments for general county purposes.*]

The FIRST SCHEDULE referred to in the foregoing Act.

#### PART I.

[*Estimated capital requirements 1st April, 1896, to 30th September, 1897.*]

#### PART II.

[*Estimated capital requirements under bills of present session up to 30th September, 1897.*]

#### PART III.

[*Amounts estimated to be required for loans to other bodies.*]

#### PART IV.

[*Sums which may be authorised by the Treasury beyond amounts limited by any section of this Act.*]

(*d*) Met Bd. Wks. (Loans) Acts, 1869 and 1875.—*Ante*.

(*e*) Met. Bd. Wks. (Money) Act, 1885.—See secs. 27—43, *ante*.

(*f*) Lon. Coun. Council. (Money) Act, 1891.—See secs. 16—20, *ante*.

(*g*) Lond. County Bills.—At the date of the publication of this work, the London County Council (Money) Bill, 1897, had already passed the House of Commons, providing by clause 21 for the repeal of the above section 22, of secs. 15—22 of the Met. Bd. Wks. (Money) Act, 1883, *ante*, and of secs. 16—20 of the London County Council (Money) Act, 1891, and for the re-enactment of their provisions with some amendments.

59 & 60 Vict.  
ch. ccciv.

Limit to  
exercise of  
borrowing  
powers.

Incorporation  
of sections 27  
to 43 of  
48 & 49 Vict.  
c. 50.

Raising money  
by bills.

Amendment of  
Acts as respects  
duties of  
Treasury.

59 & 60 Vict.  
ch. ccxiv.

## PART V.

[Amounts included above which are re-grants of borrowing powers previously granted.]

Sec. 23.

## THE SECOND SCHEDULE.

## ENACTMENTS AMENDED.

| Session & Chapter.   | Short Title.                                   | Enactments referred to.             |
|----------------------|------------------------------------------------|-------------------------------------|
| 32 & 33 Vict. c. 102 | Metropolitan Board of Works (Loans) Act, 1869, | Sections 4, 10, 17, 34, 39, and 41. |
| 46 & 47 Vict. c. 27  | Metropolitan Board of Works (Money) Act, 1883. | Sections 18, 19, and 22.            |
| 54 & 55 Vict. c. 62  | London County Council (Money) Act, 1891        | Sections 16 and 17.                 |

## FORGED TRANSFERS ACT, 1891.

**54 & 55 Vict. c. 43.** An Act for preserving Purchasers of Stock from Losses by Forged Transfers. [5th August, 1891]

Power to make compensation for losses from forged transfer.

1.—(1) Where a company or local authority issue or have issued shares, stock, or securities transferable by an instrument in writing or by an entry in any books or register kept by or on behalf of the company or local authority, they shall have power to make compensation by a cash payment out of their funds for any loss arising from a transfer of any such shares, stock, or securities, in pursuance of a forged transfer or of a transfer under a forged power of attorney (*g*).

(2) Any company or local authority may, if they think fit, provide, either by fees not exceeding the rate of one shilling on every one hundred pounds transferred (*h*), to be paid by the transferee upon the entry of the transfer in the books of the company or local authority, or by insurance, reservation of capital, accumulation of income, or in any other manner which they may resolve upon, a fund to meet claims for such compensation.

(3) For the purpose of providing such compensation any company may borrow on the security of their property, and any local authority may borrow with the like consent and on the like security and subject to the like conditions as to repayment by means of instalments or the provision of a sinking fund and otherwise as in the case of the securities in respect of which compensation is to be provided, but any money so borrowed by a local authority shall be repaid within a term not longer than five years. Any expenses incurred by a local authority in making compensation, or in the repayment of, or the payment of interest on, or otherwise in connexion with, any loan raised as aforesaid, shall, except so far as they may be met by such fees as aforesaid, be paid out of the fund or rate on which the security in respect of which compensation is to be made is charged.

(4) Any such company or local authority may impose such reasonable restrictions on the transfer of their shares, stock, or securities, or with respect to powers of attorney for the transfer thereof, as they may consider requisite for guarding against losses arising from forgery.

(5) Where a company or local authority compensate a person under this Act for any loss arising from forgery, the company or local authority shall, without prejudice to any other rights or remedies, have the same rights and remedies against the person liable for the loss as the person compensated would have had.

(*g*) Section 1, sub-section (1), is amended by the Forged Transfers Act, 1892, sec. 2, *post*.

(*h*) On every 100*l.* transferred.—“With a minimum charge equal to that for 25*l.*” Forged Transfers Act, 1892, sec. 3, *post*.



**2.** For the purposes of this Act—

The expression “company” shall mean any company incorporated by or in pursuance of any Act of Parliament, or by royal charter.

54 & 55 Vict.  
c. 43.

The expression “local authority” shall mean the council of any county or municipal borough, and any authority having power to levy or require the levy of a rate the proceeds of which are applicable to public local purposes.

Definitions :  
“Company.”  
“Local  
authority.”

**3.** [*Application to industrial societies, &c.*]**4.** [*Application to harbour and conservancy authorities.*]**5.** [*Application to colonial stock.*]**6.** [*Short title :—The Forged Transfers Act, 1891.*]

## FORGED TRANSFERS ACT, 1892.

**55 & 56 Vict. c. 36.** An Act to remove doubts as to the meaning of the Forged Transfers Act, 1891. [27th June, 1892]

**1.** This Act may be cited as the Forged Transfers Act, 1892, and this Act and the Forged Transfers Act, 1891, may be cited together as the Forged Transfers Acts, 1891 and 1892.

Short title.  
54 & 55 Vict.  
c. 43.

**2.** Whereas by sub-section one of section one of the Forged Transfers Act, 1891, it is provided that such company or local authority as therein mentioned “shall have power to make compensation by a cash payment out of their funds for any loss arising from the transfer of any such shares, stock, or securities in pursuance of a forged transfer, or of a transfer under a forged power of attorney,” and it is expedient to remove doubts as to the application of the Act to losses and forgeries before the passing of the Act: Be it therefore enacted as follows :—

Removal of  
doubt as to  
the operation  
of 54 & 55  
Vict. c. 43.

The Forged Transfers Act, 1891, shall have effect as if at the end of sub-section one of section one of that Act there were added the words “whether such loss arises, and whether the transfer or power of attorney was forged before or after the passing of this Act, and whether the person receiving such compensation, or any person through whom he claims, has or has not paid any fee or otherwise contributed to any fund out of which the compensation is paid.”

**3.** Sub-section two of section one of the said Act shall be read as if, after the words “on any one hundred pounds transferred,” were inserted the words “with a minimum charge equal to that for twenty-five pounds.”

Amendment of  
54 & 55 Vict.  
c. 43, s. 1 (2).

**4.** Where the shares, stock, or securities of a company or local authority have by amalgamation or otherwise become the shares, stock, or securities of another company or local authority, the last-mentioned company and authority shall have the same power under the Forged Transfers Act, 1891, and this Act, as the original company or authority would have had if it had continued.

Provision  
where one  
company takes  
over shares,  
&c. of another  
company.

## LOAN SOCIETIES.

## LOAN SOCIETIES ACT, 1840 (a).

**3 & 4 Vict. c. 110.** An Act to amend the Laws relating to Loan Societies. [11th August, 1840]

**1—2.** [*Rep. 37 & 38 Vict. c. 96. Statute Law Revision.*]

Formation of loan societies under restrictions in this Act.

**3.** If any number of persons who have formed or shall form any society in England for establishing a fund for making loans to the industrious classes, and taking payment of the same by instalments, with interest thereon, shall be desirous of having the benefit of this Act, such person shall cause the rules framed or to be framed for the management of such society to be certified, deposited, and enrolled in manner hereinafter directed, and thereupon shall have the benefit of the provisions contained in this Act.

Three transcripts of rules to be submitted to a barrister, &c.

**4.** Three transcripts fairly written or printed, or partly written and partly printed, on paper or parchment, of all rules made in pursuance of this Act, signed by three members, and countersigned by the clerk or secretary (accompanied, in the case of any amendment of the rules, with an affidavit of the clerk or secretary, or one of the officers of the said society, that the provisions of this Act have been duly complied with), with all convenient speed after the same shall be made or amended, and so from time to time after every making or amending thereof, shall be submitted to the barrister at law for the time being appointed to certify the rules of savings banks, for the purpose of ascertaining whether the said rules of such society, or amendment thereof, are calculated to carry into effect the intention of the parties framing such rules or amendments, and are in conformity to law; and that the said barrister shall advise with the said clerk or secretary, if required, and shall give a certificate on each of the said transcripts, that the same are in conformity to law, or point out in what part or parts the said rules are repugnant thereto; and that the barrister for advising as aforesaid, and perusing the rules or amendments of the rules of each society, and giving such certificates as aforesaid, shall demand no further fee than the sum of one guinea; and one of such transcripts, when certified by the said barrister, shall be kept by the said barrister, and another returned to the society, and the third of such transcripts shall be transmitted by such barrister to the clerk of the peace (b) for the county, city, or borough wherein such society shall be formed, and by him laid before the court of general quarter sessions (c), or adjournment thereof, held next after the time when such transcript shall have been so certified and transmitted to him as aforesaid; and the said court (c) is hereby authorised and required, without motion, to allow and confirm the same; and such transcript shall be filed by such clerk of the peace (b) with the rolls of the sessions of the peace in his custody (d), without fee or reward; and that all rules and amendments thereof, from the time when the same shall be certified by the said barrister, shall be binding on the several members and officers of the said society, and the borrowers and sureties, and all other persons having interest therein.

Barrister, &c. to certify the transcripts.

Fee payable to barrister.

One transcript to be kept by the barrister, another returned to the society, and the third sent to the clerk of the county council.

Justices to confirm rules.

Rules, &c. to be binding when certified by barrister.

**5.** [*No confirmed rule to be altered but at a general meeting of the society, &c.*]

**6.** [*Limitation of fee payable to barrister.*]

Rules to be entered in a book to be kept by the officer of the society.

**7.** All rules from time to time made and in force for the management of any such loan society, and duly certified and enrolled, shall be entered in a book or books to be kept by an officer of such society to be appointed for that purpose, which book or books shall be open at all reasonable times for the inspection of all members of such society, and of the persons receiving loans from such society, and shall be binding on the several members and officers of such

(a) *Short title and application of Act.*—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14). The confirmation and record of the rules of loan societies under the Act is transferred from the justices to the county council by the Loc. Govt. Act, 1888, sec. 3 (xv), *ante*, vol. i.

(b) *Clerk of the peace.*—Now the clerk of the county council. See note *a*, *supra*.

(c) *Court of genl. or quarter sessions.*—Now the county council. See note *supra*.

(d) *Filing of transcript.*—The transcript must now be kept in the charge of the county council. Loc. Govt. Act, 1888, sec. 83 (11) (a), *ante*, vol. i.

society, and the several persons receiving loans from the same, and their representatives, as well as those parties who may become the sureties for the repayment of any loan, their executors or administrators; and all such persons and parties shall be deemed to have full notice of the enrolled rules of the society by the deposit thereof with the *clerk of the peace* (*d*) or town clerk, as required by this Act, and by the entry thereof in such book or books; and the entry of such rules in such book or books as aforesaid, or the transcript thereof, deposited with the *clerk of the peace* (*d*) or town clerk, or a true copy of such transcript examined with the original, and proved to be a true copy, or the copy certified by the barrister at law appointed for that purpose, shall be received as evidence of such rules respectively in all cases, and no certiorari shall be brought or allowed to remove any such rules into any of Her Majesty's courts of record; and every copy of any such transcript deposited with any *clerk of the peace* (*d*) or town clerk as aforesaid shall be made without fee or reward, except the actual expense of making such copy; and such copy shall not be subject to any stamp duty.

3 & 4 Vict.  
c. 110.

(e) \* / \* \* \* \* \*

(d) **Clerk of the peace.**—See note (*b*) on page 1024.

(e) **The remaining sections** of this Act relate to the property and finances, &c., of loan societies, and do not affect the powers or duties of the county council.



## LOCAL STAMPS.

## LOCAL STAMP ACT, 1869.

**32 & 33 Vict. c. 49.** An Act to enable Local Authorities to collect Fines and Fees by means of Stamps. [2nd August, 1869]

- Short title. 1. This Act may be cited for all purposes as "The Local Stamp Act, 1869."
- Application of Act. 2. This Act shall not apply to Scotland or Ireland.
- Interpretation of "local authority." 3. For the purposes of this Act "local authority" shall mean in any county, parts, liberty, or division of a county having a separate commission of the peace, *the justices in general or quarter sessions assembled (a)*; in any borough subject to the jurisdiction of a council or other governing body, the council or other governing body for the borough.
- Power to collect fees and penalties by stamps. 14 & 15 Vict. c. 55. 4. Whenever all the clerks of special and petty sessions and all the clerks of the justices of the peace within the jurisdiction of any local authority are paid in the whole or partly by salaries, by virtue of any order made under the Criminal Justice Administration Act, 1851, it shall be lawful for any such local authority, if they think fit, notice having been given at a previous meeting of the local authority of such purpose, to order that, from and after a day to be named in such order, all or any of the fees, fines, and penalties payable to the treasurer of the county, parts, liberty, division, or borough respectively within the jurisdiction of such local authority, or to any person on account of such treasurer, shall be received by such treasurer or such person as aforesaid by means of stamps denoting the sums payable, and not in money, and to cause such dies to be made as may be required for the purpose of carrying into effect this Act; subject nevertheless to such rules as may from time to time be made and published by such local authority, with the approval of one of Her Majesty's principal Secretaries of State, and with the assent, so far as relates to the pattern, colour, and form of stamps and dies, and the making and impressing of the same, of the Commissioners of Inland Revenue; and it shall be lawful for any such local authority from time to time, with the like notice, to revoke, vary, or renew any such order, the like approval and assent being first obtained for any such variation or renewal.
- Unstamped document not to be valid. 5. Any document to or on which a stamp or stamps ought to be affixed or impressed under this Act, or under any rule for the time being in force under this Act within the jurisdiction of any local authority, shall not be of any validity unless the proper stamp or stamps has or have been affixed or impressed, or unless a certificate has been signed thereon by a justice of the peace acting in the matter to the effect that he has excused or postponed the affixing or impressment of the proper stamp or stamps, in which case the document shall be of the same validity as if the proper stamp or stamps had been duly affixed or impressed: Provided that if any such document is, through mistake or inadvertence, received, lodged, recorded, or used without being properly stamped, it shall be competent for the court or judge before whom the cause or proceeding depends to which such document relates to order that the same be stamped as in such order may be directed; and on every such document being stamped accordingly, the same, and every proceeding relative thereto, shall be as valid as if such document had been properly stamped in the first instance.
- Authority to sell stamps. 6. The local authority may, by order under the hands of any two of their number, authorise any persons to sell or distribute stamps for the purpose of this Act upon such terms and subject to such conditions as such local authority may direct, and may from time to time revoke any authority so granted. If any person not authorised as aforesaid sells or distributes any such stamps as are authorised to be used for the purpose of this Act, he shall upon summary conviction be liable to a penalty not exceeding five pounds.
- Penalty.

(a) *Justices*.—Now the county council acting through the standing joint committee of the quarter sessions and the county council. Loc. Govt. Act, 1888, secs. 3 (xiii) and 30 (3), *ante*.

7. All expenses which may be incurred by any local authority in or about the preparing or making of dies or stamps, or in or about the carrying into execution of any of the powers given them by this Act, shall be defrayed out of and be a charge upon the county or borough rate respectively of such local authority.

32 & 33 Vict.  
c. 49.

Expenses of  
Act.

8. If any person is guilty of any of the following offences:—

Penalties for  
offences herein  
named.

- (1) Forges or counterfeits, or causes or procures to be forged or counterfeited, any stamp or die, or any part of any stamp or die (b), provided, made, or used in pursuance of this Act; or,
- (2) Forges or counterfeits, or causes or procures to be forged or counterfeited, the impression, or any part of the impression, of any such stamp or die as aforesaid upon any document; or,
- (3) With intent to defraud the local authority, stamps or marks, or causes or procures to be stamped or marked, any document with any such forged or counterfeited stamp or die;
- (4) Sells or exposes for sale any document having thereupon the impression of any such forged or counterfeited stamp or die, or part of any such stamp or die, or any such forged or counterfeited impression or part of an impression, knowing the same to be forged or counterfeited; or,
- (5) Fraudulently cuts or gets off, or causes or procures to be cut or got off, the impression of any such stamp or die from any document, with intent to use the same for any other document; or,
- (6) Knowingly and without lawful excuse (the proof whereof lies on the person accused) has in his possession any false, forged, or counterfeited die, plate, or other instrument, or part of any such die, plate, or instrument, resembling or intended to resemble, either wholly or in part, any stamp or die which at any time whatever has been or may be provided, made, or used by or under the direction of the local authority for the purposes of this Act; or,
- (7) Knowingly and without lawful excuse (the proof whereof lies on the person accused) has in his possession any vellum, parchment, or paper having thereon the impression of any such false, forged, or counterfeit stamp or die, or having thereon any false, forged, or counterfeit stamp, mark, or impression resembling or representing, either wholly or in part, or intended or liable to pass or be mistaken for any such stamp or die;
- (8) With intent to defraud the local authority, forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any certificate of a justice of the peace under this Act, or any signature to any certificate purporting to be signed by a justice of the peace under this Act;

Every person so offending, and every person knowingly and wilfully aiding and abetting any person in committing any such offence, and being thereof lawfully convicted, shall be judged guilty of felony, and shall be liable (c) . . . to penal servitude (c) . . .

(b) **Counterfeits any die.**—Under the Post Office (Protection) Act, 1884 (47 & 48 Vict. c. 76), sec. 7 (c), it was held that a person who ordered and kept in his possession a die for making impressions of a stamp upon the pages of an illustrated stamp catalogue was liable to conviction, notwithstanding that he had done so with an innocent motive. *Dickins v. Gill* (1896), 2 Q. B. 310; 65 L. J. M. C. 187.

(c) **Section 8.**—The words omitted were repealed by 56 & 57 Vict. c. 54 (Statute Law Revision).

## LOCAL TAXATION RETURNS.

|                                                               |           |
|---------------------------------------------------------------|-----------|
| 23 & 24 Vict. c. 51 ("Local Taxation Returns Act, 1860")..... | page 1028 |
| 40 & 41 Vict. c. 66 ("Local Taxation Returns Act, 1877")..... | 1029      |

LOCAL TAXATION RETURNS ACT, 1860 (*a*).

**23 & 24 Vict. c. 51.** An Act to provide for an Annual Return of Rates, Taxes, Tolls, and Dues levied for local Purposes in England. [23rd July, 1860]

Clerks of  
bodies  
empowered to  
levy rates, &c.  
to make annual  
returns to  
Loc. Govt. Bd.

1. The clerk to any corporation, justices, commissioners, district or other board, vestry, inspectors, trustees, or other body or persons authorised to levy or to order to be levied any of the rates, taxes, tolls, or dues mentioned in the schedule to this Act, or any other compulsory rates, taxes, tolls, or dues in England (other than such as are levied for the public revenue of the United Kingdom), shall make a return (*b*) of the sums levied or received by or in respect of such rates, taxes, tolls, and dues, and of the expenditure thereof, to one of *Her Majesty's principal Secretaries of State* (*c*) . . . in every year.

Contents of  
returns.

2. Such returns . . . (*d*) shall show the amounts levied and expended respectively, with such other particulars and in such form as shall from time to time be ordered by such Secretary of State.

Who are to  
make returns  
in certain  
cases.

3. . . . (*d*) Where any such rates, taxes, tolls, or dues are levied and expended or to be accounted for by churchwardens, chapelwardens, or any officers or persons not authorised to act as a board, such returns as hereinbefore mentioned in respect of such rates, taxes, tolls, or dues, and the expenditure thereof, shall be made by such churchwardens, chapelwardens, or other officers or persons, and they shall be severally liable in respect of any neglect to make the same.

Penalty for  
default.

4. Any clerk, treasurer (*e*), churchwarden, officer, or other person required as aforesaid to make such return who neglects so to do in the month of June in any year shall be liable to a penalty not exceeding twenty pounds for every such offence, to be recoverable on summary conviction thereof before two justices.

Saving for  
returns  
already  
required.

5. Where any annual return is now by law required to be made to the Secretary of State, or to any public department, under any Act of Parliament, this Act shall not render necessary any further or other return in respect of the same matters: Provided always, that the said Secretary of State may, by his order published in the London Gazette, direct that all or any of such returns now required as aforesaid shall in future be made under this Act, and shall be subject to the provisions and penalties thereof.

Abstracts of  
returns to be  
laid before  
Parliament.  
Poor rate  
returns to be  
made to Loc.  
Govt. Board as  
heretofore.

6. The said Secretary of State shall every year cause the returns transmitted to him under this Act to be abstracted, and the abstract thereof to be laid before both Houses of Parliament.

7. This Act shall not extend to the rates levied for the relief of the poor, or the expenditure thereof, but the returns thereof shall continue to be made to

(*a*) **Short title.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(*b*) **Annual return.**—Where the accounts are audited by a district auditor appointed by the Loc. Govt. Bd., and he sends a certified duplicate financial statement to that Board, a return of the receipts and expenditure comprised in such statement need not be sent unless the Loc. Govt. Bd. require it. District Auditors Act, 1879, sec. 3, *ante*, tit. "*Audit*."

(*c*) **Secretary of State.**—The return is now sent to the Loc. Govt. Bd., and not to one of Her Majesty's principal Secretaries of State. Local Taxation Returns Act, 1877, sec. 1, *post*. The remainder of the above section is repealed by 38 & 39 Vict. c. 66, and 55 & 56 Vict. c. 19 (Statute Law Revision Acts).

(*d*) **Sections 2 and 3.**—The words omitted from these sections are repealed by 55 & 56 Vict. c. 19 (Statute Law Revision).

(*e*) **Clerk, treasurer.**—These words are repealed by Statute Law Revision Act, 1892 (55 & 56 Vict. c. 19). As to the liability of these officers to a penalty, and its recovery, see Local Taxation Returns Act, 1877, sec. 2, *post*.



the Poor Law Board (*f*), as by the orders of such board shall from time to time be directed. 23 & 24 Vict. c. 51.

8. This Act shall not extend to any tolls or dues taken by any railway, canal, or joint stock company as profits on their undertaking, or to any tolls or dues taken by prescription or otherwise as private property. Saving for joint stock companies and private rights of toll, &c.

## SCHEDULE.

Church rates and chapel rates; whether made by the Common Law or under the Church Building Acts, or under any other Act of Parliament.

Sewers rates and "general sewers tax," and all rates, scots, and taxes levied by courts or commissioners of sewers; whether levied under the Acts of the 3 & 4 W. 4, c. 22, and 4 & 5 Vict. c. 45, or under any other Act of Parliament, or by charter, usage, or custom.

Rates under the Act for the lighting and watching of parishes, 3 & 4 W. 4, c. 90.

Rates levied by improvement commissioners or other commissioners, or by any trustees or corporation acting under any local Act for the paving, draining, cleansing, or watching, improvement or regulation of any town or district.

Rates levied by or under the order of any vestry or district board, under the Metropolis Management Act, 1855.

Tolls and dues levied under the authority of Parliament in respect of markets, bridges, or harbours. 18 & 19 Vict. c. 120.

## LOCAL TAXATION RETURNS ACT, 1877.

40 & 41 Vict. c. 66. An Act to amend the Law with respect to the Annual Returns of Local Taxation in England, and for other purposes relating to such Taxation. [14th August, 1877]

1. The annual return required by law to be made of any receipts or expenditure of a local authority, or of any rates, taxes, tolls, or dues, shall be made for the financial year ending on the twenty-fifth day of March, or on such day as the Local Government Board may from time to time prescribe, upon the application of any particular authority in respect of their receipts and expenditure, or of any rates, taxes, tolls, or dues levied by them, or in respect of the receipts and expenditure and of the rates, taxes, tolls, or dues levied by any class of authorities. Date for annual return of local taxation.

Every such return shall be sent to the Local Government Board (*g*) and not to one of Her Majesty's principal Secretaries of State, and shall be so sent within one month after (*h*) the audit of the receipts and expenditure to which the return relates is completed, or if the audit is not completed within six months after (*h*) the end of the financial year for which the return is to be made, then on the expiration of such six months, or if there is no audit, then within one month after (*h*) the end of the said financial year.

For the purpose of any such return the date to which the accounts of any local authority are required by law to be made up, and the date at which such accounts are required by law to be audited, and auditors are required to be elected or appointed, may be altered by the local authority, with the approval of the Local Government Board: Provided that nothing in this section shall prevent any accounts being made up and audited at shorter periods than twelve months, so that one of such shorter periods ends on the last day of the financial year for which the return of such accounts is to be made.

2. Every return to which this Act applies shall be made by the clerk of the local authority, or where no clerk is appointed or acting, by the treasurer or Obligation of clerk of local authority to send return.

(*f*) **Poor Law Board.**—Now the Local Govt. Bd. Loc. Govt. Bd. Act, 1870 (34 & 35 Vict. c. 70).

(*g*) **Annual return.**—See note to sec. 1 of the Local Taxation Returns Act, 1860, *ante*, as to when the return may be dispensed with.

(*h*) **Within one month (six months) after,** i.e., calendar month (Interpretation Act, 1889 (52 & 53 Vict. c. 63), sec. 3), exclusive of the day on which the audit is completed, but inclusive of the day on which the return is sent. *Radeliffe v. Bartholomew*, *ante*, p. 959.

- 40 & 41 Vict.  
c. 66.
- other officer keeping the accounts of the receipts and expenditure, rates, taxes, tolls, or dues, to which the return relates, and any such clerk, treasurer, or other officer who makes default in making any such return shall be liable to a penalty not exceeding twenty pounds for each offence<sup>(i)</sup>, to be recovered by action on behalf of Her Majesty in the High Court of Justice.
- Definition of  
"local  
authority."
3. The expression "local authority" in this Act means any justices, municipal or other corporation, board, guardians, sanitary authority<sup>(k)</sup>, vestry, commissioners, inspectors, trustees, or other body of persons required by law to make to one of Her Majesty's principal Secretaries of State, or to the Local Government Board, a return of their receipts and expenditure, or of any rates, taxes, tolls, or dues levied by them or under their direction.
- First return  
under Act.
4. The Local Government Board shall make such provision as may seem to them necessary for any change of the date of the accounts and audit of the accounts of any local authority which may be rendered necessary by the provisions of this Act, so as to cause as little inconvenience as possible to the local authority.
- Short title.
5. This Act may be cited as the Local Taxation Returns Act, 1877 . . .<sup>(l)</sup>, the Local Taxation Returns Act, 1860, . . . and this Act may be cited as the Local Taxation Returns Act, 1860 and 1877.

(i) **Penalty.**—See also Local Taxation Returns Act, 1877. sec. 4, *ante*.

(k) **Sanitary authority.**—For the London sanitary authorities, see the Pub. Hlth. (London) Act, 1891, sec. 99, *ante*, vol. i.

(l) **Section 5.**—The words omitted from this section are repealed by 57 & 58 Vict. c. 56 (Statute Law Revision).

**LUNATIC ASYLUMS.**

|                                               |           |
|-----------------------------------------------|-----------|
| 53 Vict. c. 5 ("Lunacy Act, 1890").....       | page 1031 |
| 54 & 55 Vict. c. 65 ("Lunacy Act, 1891")..... | 1073      |

**LUNACY ACT, 1890 (a).**

**53 Vict. c. 5.** An Act to consolidate certain of the Enactments respecting Lunatics. [29th March, 1890]

*Preliminary.*

1. This Act may be cited as the Lunacy Act, 1890.
2. [*Act not to extend to Scotland or Ireland.*]
3. [*Commencement of Act, 1st May, 1890.*]

Short title.

Extent of Act.

**PART I.****RECEPTION OF LUNATICS.***Reception Orders on Petition.*

4.—(1) Subject to the exceptions in this Act mentioned, a person, not being a pauper or a lunatic so found by inquisition, shall not be received and detained as a lunatic in an institution for lunatics, or as a single patient, unless under a reception order made by the judicial authority hereinafter mentioned. A relative of the person applying for an order under this section or of the lunatic, or of the husband or wife of the lunatic, shall not be capable of making such order.

(2) The order shall be obtained upon a private application by petition accompanied by a statement of particulars and by two medical certificates on separate sheets of paper.

Private patients not found lunatic by inquisition to be received only under order of judicial authority.

Forms 1, 2, 8.

5—8. [*Petition for reception order. Procedure on petition.*]

*The Judicial Authority defined.*

9.—(1) The powers of the judicial authority under this Act shall be exercised by a justice of the peace specially appointed as hereinafter provided, or a judge of county courts, or magistrate . . .

Judicial authority defined.

10. [*Justices to appoint annually out of their own body persons to make reception orders.*]

*Urgency Orders.*

11.—(1) In cases of urgency where it is expedient, either for the welfare of a person (not a pauper) alleged to be a lunatic, or for the public safety, that the alleged lunatic should be forthwith placed under care and treatment, he may be received and detained in an institution for lunatics, or as a single patient upon an urgency order, made (if possible) by the husband or wife or by a relative of the alleged lunatic, accompanied by one medical certificate.

Urgency orders.

Forms 4, 8, 9.

(2) An urgency order may be signed before or after the medical certificate.

(3) If an urgency order is not signed by the husband or wife or by a relative of the alleged lunatic, the order shall contain a statement of the reasons why the same is not so signed and of the connexion with the alleged lunatic of the person signing the order, and the circumstances under which he signs the same.

(4) No person shall sign an urgency order unless he is at least twenty-one years of age, and has within two days before the date of the order personally seen the alleged lunatic.

(5) An urgency order may be made as well after as before a petition for a reception order has been presented. An urgency order, if made before a petition has been presented, shall be referred to in the petition, and if made after the petition has been presented, a copy thereof shall forthwith be sent by the petitioner to the judicial authority to whom the petition has been presented.

(a) **Application of Act.**—This Act repeals and consolidates all previous enactments relating to lunatics. The Common Council is the local authority in the City, and the County Council in the remainder of the Metropolis, for the purposes of the Act, in respect to the provision of pauper lunatic Asylums. Secs. 238 and 240. *post.* Such sections as are not set out, do not confer any powers or impose any duties upon them.



53 Vict. c. 5. (6) An urgency order shall remain in force for seven days from its date; or if a petition for a reception order is pending, then until the petition is finally disposed of.

Form 2. (7) An urgency order shall have subjoined or annexed thereto a statement of particulars.

*Reception after Inquisition.*

Lunatics so found by inquisition.

12. A lunatic so found by inquisition may be received in an institution for lunatics or as a single patient upon an order signed by the committee of the person of the lunatic, and having annexed thereto an office copy of the order appointing the committee, or if no such committee has been appointed, upon an order signed by a master.

*Reception Orders.*

13. [Constables, relieving officers, and overseers to give notice to justice of any lunatic, not being a pauper nor wandering at large, who is not under proper care and control or who is cruelly treated or neglected. Upon certificate by two medical officers, justice may by order direct lunatic to be received in institution for lunatics.]

14. [Medical officer of union to give notice to relieving officer of pauper lunatic who ought to be sent to asylum, and alleged lunatic to be taken before justice.]

15. [Lunatic wandering at large to be brought before a justice.]

16. [Pauper lunatic or lunatic wandering at large may be sent by order of justice to an institution for lunatics.]

17. [Power to justice to examine alleged lunatic at his own abode or elsewhere.]

When lunatic may be treated as a pauper.

18. A justice shall not sign an order for the reception of a person as a pauper lunatic into an institution for lunatics, or workhouse, unless he is satisfied that the alleged pauper is either in receipt of relief, or in such circumstances as to require relief for his proper care. If it appears by the order that the justice is so satisfied, the lunatic shall be deemed to be a pauper chargeable to the union, county, or borough properly liable for his relief. A person who is visited by a medical officer of the union, at the expense of the union, is, for the purposes of this section, to be deemed to be in receipt of relief.

19. [Justice may suspend execution of removal order.]

20. [Removal of lunatic to workhouse in urgent cases.]

21. [Temporary removal of lunatic to workhouse under order of justice.]

22. [Power to allow a relation or friend to take charge of a lunatic.]

23. [Two or more commissioners may send pauper lunatic to an institution for lunatics.]

*Lunatics in Workhouses.*

24. [Lunatics in workhouses.]

Power to send discharged pauper not recovered to a workhouse.

25. Where a pauper lunatic is discharged from an institution for lunatics, and the medical officer of the institution is of opinion that the lunatic has not recovered and is a proper person to be kept in a workhouse as a lunatic, the medical officer shall certify such opinion, and the lunatic may thereupon be received and detained against his will in a workhouse without further order if the medical officer of the workhouse certifies in writing that the accommodation in the workhouse is sufficient for the lunatic's proper care and treatment, separate from the inmates of the workhouse not lunatics, or that the lunatic's condition is such that it is not necessary for the convenience of the lunatic, or of the other inmates, that he should be kept separate.

Chronic lunatics may be received in workhouses in certain cases.

26.—(1) The visitors of any asylum may, with the consent of the Local Government Board and the commissioners, and subject to such regulations as they respectively prescribe, make arrangements with the guardians of any union for the reception into the workhouse of any chronic lunatics, not being dangerous, who are in the asylum and have been selected and certified by the manager of the asylum as proper to be removed to the workhouse.

(2) Every lunatic received in a workhouse under this section shall, while he remains there, continue a patient on the books of the asylum for the purposes of this Act so far as it relates to lunatics removed to asylums.

*Institutions in which Lunatics may be received.*

53 Vict. c. 5.

**27.**—(1) Subject to the restrictions in this section mentioned, every summary reception order, and every reception order made by two or more commissioners, may authorise the reception of the lunatic named in the order not only into an asylum of the county or borough in which the place from which the lunatic is sent is situate, but also into any other institution for lunatics.

Institutions to which lunatics may be removed.

(2) A lunatic shall not under any such order be sent elsewhere than to an asylum of the county or borough in which the place from which he is sent is situate (*b*) unless there is no such asylum, or there is a deficiency of room, or there are some special circumstances by reason whereof the lunatic cannot conveniently be taken to such asylum, and the deficiency of room or special circumstances shall be stated in the order.

(3) A pauper lunatic shall not be received under an order into any asylum other than an asylum belonging wholly or in part to the county or borough in which the place from which the lunatic is sent or the parish in which he is adjudged to be settled is situate (*b*), unless there is a subsisting contract for the reception of lunatics of such county or borough therein, or such borough otherwise contributes to the asylum into which the pauper is to be received, except the order is endorsed by a visitor of that asylum.

(4) The manager of a hospital or licensed house shall not be bound to receive any lunatic under any such order except in pursuance of a subsisting contract.

*Requirements of Reception Orders and Medical Certificates.*

**28.**—(1) Every medical certificate under this Act shall be made and signed by a medical practitioner.

Medical certificates.

(2) [*Medical certificate to state facts on which the certifying medical practitioner has formed his opinion.*]

(3) The medical certificate accompanying an urgency order shall contain a statement that is expedient for the welfare of the alleged lunatic or for the public safety that he should be forthwith placed under care and treatment, with the reasons for such statement.

Form 9.

(4) [*Medical certificate to be evidence of facts and medical practitioner's judgment.*]

**29.**—(1) (2) [*Medical examination to be made within seven days of presentation of petition or of date of reception order.*]

(3) In the case of an urgency order, the lunatic shall not be received under the order unless it appears by the medical certificate accompanying the order that the certifying medical practitioner has personally examined the alleged lunatic not more than two clear days before his reception.

**30.** A medical certificate accompanying a petition for a reception order or accompanying an urgency order shall not be signed by the petitioner or person signing the urgency order, or by the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant of such petitioner or person.

Persons disqualified for signing certificates.

**31.** [*Usual medical attendant to sign medical certificate in case of private patient, if possible.*]

**32.**—(1) No person shall be received or detained as a lunatic in any institution for lunatics, or as a single patient, where any certificate accompanying the reception order has been signed by any of the following persons:—

Patients not to be received under certificates by interested persons.

(a) The manager of the institution or the person who is to have charge of the single patient:

(b) Any person interested in the payments on account of the patient:

(c) Any regular medical attendant in the institution:

(d) The husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law,

(*b*) **Place is situate.**—Where a workhouse is situate in a county which does not include the union to which the workhouse belongs, the summary reception order may order a lunatic in the workhouse to be received in any asylum in which pauper lunatics chargeable to the union to which the workhouse belongs, may legally be received. Lunacy Act, 1891, sec. 6, *post*.

53 Vict. c. 5. sister or sister-in-law, or the partner or assistant of any of the foregoing persons.

(2) Neither of the persons signing the medical certificates in support of a petition for a reception order shall be the father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, or the partner or assistant, of the other of them.

(3) No person shall be received as a lunatic in a hospital under an order made on the application of, or under a certificate signed by, a member of the managing committee of the hospital.

Commissioners and visitors not to sign certificates.

**33.** A medical practitioner who is a commissioner or a visitor shall not sign any certificate for the reception of a patient into a hospital or licensed house, unless he is directed to visit the patient by a judicial authority under this Act, or by the Lord Chancellor, or a Secretary of State, or a committee appointed by the judge in lunacy.

Amendment of orders and certificates.

**34.**—(1) If an order or certificate for the reception of a lunatic is, after such reception, found to be in any respect incorrect or defective, such order or certificate may, within fourteen days next after such reception, be amended by the person who signed the same. No amendment shall be allowed unless the same receives the sanction of the commissioners, or of some one of them, and (in the case of a private patient) the consent of the judicial authority by whom the order for the reception of the lunatic may have been signed.

(2) If the commissioners deem any such certificate to be incorrect or defective, they may, by a direction in writing, addressed to the manager of the institution for lunatics, or to the person having the charge of a single patient, require the same to be amended by the person who signed the same, and if the same be not duly amended to their satisfaction within fourteen days next after the reception of the patient, the commissioners, or any two of them, may, if they think fit, make an order for the patient's discharge.

(3) Every order and certificate amended under this section shall take effect as if the amendment had been contained therein when it was signed.

Authority for reception.

**35.**—(1) A reception order, if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner or any person authorised by him, or in the case of an order not made upon petition for the person authorised so to do by the person making the order, to take the lunatic and convey him to the place mentioned in such order and for his reception and detention therein, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order.

(2) In the case of a reception order made upon petition the order, together with the petition, statement of particulars, and medical certificates upon which the order was made, shall be delivered or sent by post to the person on whose petition the order was made, and shall by him or his agent be delivered to the manager of the institution for lunatics in which, or to the person by whom, the lunatic is to be received.

Fresh order and certificates not to be required in certain cases.

**36.**—(1) Where a reception order has been made, and the execution of the order has been suspended, or the lunatic named in the order has been temporarily taken to a workhouse under the provisions of this Act, he may be received in the institution for lunatics named in the order at any time within fourteen days after the date of the reception order.

(2) If the removal of the lunatic has been suspended by reason of a medical certificate that the lunatic is not in a fit state for removal, the lunatic may be received in the institution for lunatics named in the order within three days after the date of a medical certificate that the lunatic is in a fit state to be removed.

(3) In all other cases a reception order shall cease to be of any force unless the lunatic has been received thereunder before the expiration of seven clear days from its date.

Order and certificate to remain in force in certain cases.

**37.**—(1) An order for the reception of a patient as a pauper shall extend to authorise his detention though it may afterwards appear that he is entitled to be classified as a private patient, and an order required for the reception of a private patient shall authorise his detention although it may afterwards appear that he ought to be classified as a pauper patient.

(2) If a patient is removed temporarily under the provisions of this Act from the place in which he is confined, or is transferred from one place of confinement



to another, the original order and certificate or certificates upon which he was received shall remain in force. 53 Vict. c. 5.

*Duration of Reception Orders.*

**38.**—(1) Every reception order dated after or within three months before the commencement of this Act, shall expire at the end of one year from its date, and any such order dated three months or more before the commencement of this Act shall expire at the end of one year after the commencement of this Act unless such orders respectively are continued as hereinafter provided. Duration of reception orders.

(2) In the case of any institution for lunatics the commissioners may by order under their seal direct that the reception orders of patients detained therein shall, unless continued as hereinafter provided, expire on any quarterly day next after the days on which the orders would expire under the last preceding sub-section.

(3) An order for the removal of a patient from one custody to another shall not be deemed to be a reception order within this section, but the patient who is removed shall after removal be deemed to be detained under the original reception order as a lunatic, and such order shall expire in accordance with the provisions of this section unless continued as hereinafter provided.

(4) [*Rep. and provisions substituted by the Lunacy Act, 1891, sec. 7, post.*]

(5) The person sending the special report shall give to the commissioners such further information concerning the patient to whom the special report relates as they require.

(6) If in the opinion of the commissioners the special report does not justify the accompanying certificate, then—

(a) [*In the case of a patient in a hospital or licensed house . . .*]

(b) In the case of a patient in an asylum, the commissioners shall send a copy of the report, with any other information in their possession relating to the case, to the clerk to the visiting committee of the asylum, and the committee, or any three of them, shall thereupon investigate the case and may discharge the patient or give such directions respecting him as they may think proper.

(7) The manager of any institution for lunatics, and any person having charge of a single patient, who detains a patient after he has knowledge that the order for his reception has expired, shall be guilty of a misdemeanour.

(8) The special reports and certificates under this section may include and refer to more than one patient.

(9) A certificate under the hand of the secretary to the commissioners that an order for reception has been continued to the date therein mentioned shall be sufficient evidence of the fact.

(10) This section shall not apply to lunatics so found by inquisition.

PART II.

CARE AND TREATMENT.

*Reports after Reception.*

**39** (c).—(1) The medical officer of every institution for lunatics, and the medical attendant of every single patient shall at the expiration of one month after the reception of a private patient (d) prepare and send to the commissioners a report as to the mental and bodily condition of the patient, in such form as the commissioners direct. Reports upon and visits to private patients.

(2) [*Reports from licensed houses.*]

(3) (4) [*Visits to licensed houses.*]

(5) (6) [*Visits to single patients.*]

(7) In the case of a private patient in an asylum or hospital the commissioners, after receiving the report, shall either make arrangements for a visit being paid, as soon as conveniently may be, to the patient therein named by one or more of

(c) Section 39 does not apply to lunatics received under a removal order, or to lunatics so found by inquisition. Lunacy Act, 1890, sec. 8, *post*.

(d) **Private patient**, i.e., a patient who is not a pauper. Sec. 341, *post*. A lunatic sent to an institution for lunatics under secs. 13 or 16, *ante*, is to be classified as a pauper until it is ascertained that he is entitled to be classified as a private patient. Lunacy Act, 1891, sec. 3, *post*.

53 Vict. c. 5. the commissioners, who shall report to the commissioners whether the detention of the patient is or is not proper; or the commissioners shall send a copy of the report to the clerk to the visiting committee of the asylum or to the managing committee of the hospital, and one or more members of the committee shall thereupon, as soon as conveniently may be, visit the patient named in the report and report to the committee whether his detention is or is not proper, and the committee, or any three of them, may, upon consideration of such last-mentioned report, by writing under their hands discharge the patient or give such directions with regard to him as they think fit.

(8) If within a month after the reception of any private patient, the institution for lunatics or house into which he was received is visited by one or more commissioners or by any visitors, and such patient is there seen and examined by him or them, and the propriety of his detention reported on in like manner as by this section provided, no special visit shall necessarily be paid to such patient after receipt of any such report.

(9) If the commissioners in any case under this section determine that a patient ought to be discharged they may make an order for his discharge.

#### *Mechanical Restraint.*

Mechanical  
means of  
restraint.

40.—(1) Mechanical means of bodily restraint shall not be applied to any lunatic unless the restraint is necessary for purposes of surgical or medical treatment, or to prevent the lunatic from injuring himself or others.

(2) In every case where such restraint is applied a medical certificate shall, as soon as it can be obtained, be signed, describing the mechanical means used, and stating the grounds upon which the certificate is founded.

(3) The certificate shall be signed, in the case of a lunatic in an institution for lunatics or workhouse, by the medical officer thereof, and in the case of a single patient, by his medical attendant.

(4) A full record of every case of restraint by mechanical means shall be kept from day to day; and a copy of the records and certificates under this section shall be sent to the commissioners at the end of every quarter.

(5) In the case of a workhouse, the record to be kept under this section shall be kept by the medical officer of the workhouse, and the copies of records and certificates to be sent shall be sent by the clerk to the guardians.

(6) In the application of this section "mechanical means" shall be such instruments and appliances as the commissioners may, by regulations to be made from time to time, determine (e).

(7) Any person who wilfully acts in contravention of this section shall be guilty of a misdemeanour.

#### *Correspondence.*

Letters of  
patients.

41.—(1) The manager of every institution for lunatics, and every person having charge of a single patient, shall forward unopened all letters written by any patient and addressed to the Lord Chancellor or any judge in lunacy, or to a Secretary of State, or to the commissioners, or any commissioner, or to the person who signed the order for the reception of the patient, or on whose petition such order was made, or to the Chancery visitors or any Chancery visitor or to any other visitors or visitor or to the visiting committee, or any member of the visiting committee of the institution, in which any patient writing such letters may be, and may also at his discretion forward to its address any other letter if written by a private patient.

(2) Every manager of an institution for lunatics, and every person having charge of a single patient who makes default in complying with the obligation imposed on him by this section shall for each offence be liable to a penalty not exceeding twenty pounds.

#### *Notices.*

Notices as to  
letters and  
interviews.

42.—(1) Whenever the commissioners so direct, there shall, unless there is no private patient therein, be posted up in every institution for lunatics, printed notices setting forth—

(e) **Mechanical means.**—The regulations of the commissioners under this section now in force are dated April 17th, 1895.

(a) The right of every private patient to have any letter written by him forwarded in pursuance of the last preceding section; 53 Vict. c. 5.

(b) The right of every private patient to request a personal and private interview with a visiting commissioner or visitor at any visit which may be made to the institution.

(2) The notices shall be posted in the institution, so that every private patient may be able to see the same.

(3) The visiting commissioners or visitors may give directions as to the places in which such notices are to be posted.

(4) If the manager of any institution for lunatics makes default in posting such notices, or does not within ten days carry out any directions as to such notices given by the visiting commissioners or visitors, he shall for each offence be liable to a penalty not exceeding twenty pounds.

#### *Medical Attendance.*

43.—(1) A medical practitioner who has signed a certificate upon which a reception order in the case of a private patient has been made shall not be the regular professional attendant of the patient while detained under the order.

Persons disqualified to be medical attendants of lunatics.

(2) A medical practitioner, who is a commissioner or visitor, shall not professionally attend upon a patient in a hospital or licensed house, unless he is directed to visit the patient by the person on whose petition the reception order was made, or by the Lord Chancellor, or a Secretary of State, or a committee appointed by the judge in lunacy.

44. [*Medical attendance on single patients.*]

45. [*Special report as to single patient.*]

46. [*Power to take more than one person on same conditions as a single patient.*]

#### *Visits of Friends.*

47.—(1) Any one of the commissioners, as to patients confined in an institution for lunatics or other place (not being a gaol) authorised to be visited by the commissioners, and any one of the visitors of a licensed house, as to patients confined in such house, may at any time give an order in writing under his hand for the admission to any patient of any relation or friend or of any medical or other person whom any relation or friend desires to be admitted to him.

Admission to patients of friends, relations, and others.

(2) The order of admission may be either for a single admission, or for an admission for a limited number of times, or for admission generally at all reasonable times, and with or without any restriction as to the presence of an attendant or otherwise.

(3) If the manager or principal officer of any institution or place refuses, prevents, or obstructs the admission to any patient of any person who produces an order of admission, he shall for every offence be liable to a penalty not exceeding twenty pounds.

48. [*Power of commissioners to appoint substitute for the person who applied for reception order.*]

#### *Examination of Lunatic.*

49. An order for the examination by two medical practitioners, authorised by the commissioners, of any person detained as a lunatic in any institution for lunatics, or as a single patient, may be obtained from the commissioners upon the application of any person, whether a relative or friend or not, who satisfies the commissioners that it is proper for them to grant such order; and on production to the commissioners of the certificates of the medical practitioners so authorised, certifying that after two separate examinations with at least seven days intervening between the first and the second examination, they are of opinion that the patient may, without risk or injury to himself or the public, be discharged, the commissioners may order the patient to be discharged at the expiration of ten days from the date of the order.

Provision for any person to apply to have patient examined.

50. [*Inquiries as to property of lunatic by Lord Chancellor or commissioners.*]



53 Vict. c. 5.

51. [Power for a commissioner or visitor to direct a search amongst returns made to commissioners whether a particular person has been confined.]

52. [Diet in hospitals and licensed houses.]

*Employment of Males in care of Females.*

Males not to be employed in personal custody of females.

53. It shall not be lawful to employ any male person in any institution for lunatics in the personal custody or restraint of any female patient, and any person employing a male person contrary to this section shall be liable to a penalty not exceeding twenty pounds. Provided that this section shall not extend to prohibit or impose a penalty on the employment of male persons on such occasions of urgency as may in the judgment of the manager of the institution render such employment necessary, but the manager shall in each case report the employment to the visiting commissioners or visitors at their next visit.

54. [Book to be kept in workhouse.]

*Absence on Trial or for Health.*

Absence on trial or for health.

55.—(1) Any two visitors of an asylum, with the advice in writing of the medical officer, may permit a patient in the asylum to be absent on trial so long as they think fit.

(2) The visitors may make an allowance to a pauper lunatic absent from the asylum on trial, not exceeding the charge in the asylum, and that allowance, and no more, shall be paid for him as if he were in the asylum.

(3)—(7) [*Absence from hospital or licensed house.*]

(8) If a person allowed to be absent on trial for any period does not return at the expiration thereof, and a medical certificate certifying that his detention as a lunatic is no longer necessary is not sent to the visitors of the asylum or the manager of the hospital or house, he may at any time within fourteen days after the expiration of the period of trial be retaken as in the case of an escape.

56. [*Change of residence of single patients.*]

*Boarding-out Lunatics.*

Maintenance for pauper lunatic taken charge of by relatives.

57.—(1) Where application is made to the visiting committee of an asylum by any relative or friend of a pauper lunatic confined therein that he may be delivered over to the custody of such relative or friend, the committee may, upon being satisfied that the application has been approved by the guardians of the union to which the lunatic is chargeable or the local authority liable for his maintenance, and, in case the proposed residence is outside the limits of such union or the area subject to such local authority, then also by a justice having jurisdiction in the place where the relative or friend resides, and that the lunatic will be properly taken care of, order the lunatic to be delivered over accordingly.

(2) Where any such order is made, the authority liable for the maintenance of the lunatic shall pay to the person to whom the lunatic is delivered such allowance for the maintenance of the lunatic, not exceeding the expenses which would be incurred on his account if he were in the asylum, as such authority on the recommendation of the visiting committee of the asylum from which the lunatic was delivered over thinks proper.

51 & 52 Vict. c. 41.

(3) For the purposes of section twenty-four, sub-section (2) (f), of the Local Government Act, 1888 (f), a lunatic boarded out by the authorities of any asylum shall be deemed to be a lunatic maintained in an asylum.

*Removal of Lunatics.*

Removal of private patient by person authorised to discharge the patient.

58. A person having authority to order the discharge of a private patient from an institution for lunatics, or of any single patient, may, with the previous consent in writing of a commissioner, by order in writing direct the removal of the patient to any institution for lunatics or to the charge of any person named in the order.

(f) *Loc. Govt. Act, 1888, sec. 24 (2) (f), ante, vol. i.*

59.—(1) Any two commissioners may by order direct the removal of a lunatic from an institution for lunatics to any other institution for lunatics.

(2) [*Death of a person having charge of a single patient.*]

(3) [*Removal of single patient.*]

53 Vict. c. 5.

Removal of lunatics by commissioners.

60.—(1) Where, upon the visitation of a workhouse by any two or more commissioners, it appears to them that a lunatic or alleged lunatic therein is not a proper person to be allowed to remain in a workhouse, they may by order direct the lunatic to be removed to an institution for lunatics, and every such order shall have the same effect as a summary reception order.

(2) [*The guardians of the union may appeal against such order . . .*]

Removal of lunatic from workhouse by commissioners.

61. [*Removal of lunatic in a hospital or licensed house by guardians.*]

62. [*Rep. by Lunacy Act, 1891, sec. 29, post.*]

63. Where the visiting committee of an asylum has made an order for a pauper lunatic in the asylum to be delivered to the custody of a relative or friend, any two members of the committee may at any time, if they think fit, order the lunatic to be removed to the asylum.

Removal of lunatic boarded out into asylum.

64. Any two visitors of an asylum may order a pauper lunatic chargeable to any union within any county or borough to which the asylum wholly or in part belongs, or to such county or to any county for the reception of the pauper lunatics whereof into that asylum there is a subsisting contract, to be removed to that asylum from any other institution for lunatics in which he may be detained.

Removal of pauper into county asylum.

65.—(1) Any two visitors of an asylum may order a pauper lunatic in the asylum to be removed to some other institution for lunatics.

(2) A lunatic shall not be removed under this section without the consent in writing of two commissioners, except to—

Removal of pauper from asylum.

(a) An asylum within or belonging wholly or in part to the county within which the asylum from which the lunatic is removed is situate, or to the county in some parish of which the lunatic may have been adjudged to be settled; or

(b) A hospital or licensed house within any such county as aforesaid; or

(c) An institution for lunatics into which the lunatic can be received under a subsisting contract.

66. The visitors making an order for the removal of a pauper lunatic may by the order require any relieving officer, or other officer of the union, county, or borough to which the lunatic is chargeable, or may authorise any other person, to execute the same.

Directions as to execution of order for removal.

67. A pauper lunatic shall not be removed under any order for removal made by two visitors without a medical certificate signed by the medical officer of the institution for lunatics from which the patient is to be removed, certifying that he is in a fit condition of bodily health to be removed.

Restriction upon removal of paupers by two visitors.

68. Where a union is in more than one county, and the workhouse of the union is in one county, and the place from which a lunatic was sent to the workhouse is in another county, an order may be made by a justice for the county in which the workhouse is, or a justice for the county from which the lunatic was sent, for the removal of the lunatic either to the asylum of the county in which the workhouse is or to the asylum of the county from which the lunatic was sent, and such latter order may be made notwithstanding that there may be an asylum of the county in which the workhouse is, and there may not be a deficiency of room or any other special circumstances by reason whereof the lunatic cannot conveniently be taken to that asylum.

Removal of lunatic from workhouse by a justice.

69. Except under the provisions of the preceding section a pauper lunatic shall not be removed under an order of removal to any institution for lunatics into which he could not have been received under a reception order.

Restriction as to institution to which pauper may be removed.

70.—(1) Every order for the removal of a lunatic from an institution for lunatics or from the charge of any person and the consent of the commissioners thereto, where required, shall be in duplicate. One duplicate shall be delivered to the manager of the institution for lunatics or the person from whose care the lunatic is removed, and the other to the manager of the institution for lunatics, or the person into whose care the lunatic is removed.

Removal orders to be in duplicate.

53 Vict. c. 5.

(2) Every such order, with such consent as aforesaid where required, shall be sufficient authority for the removal and reception of the lunatic, in accordance with the order.

(3) The manager of the institution from which, or the person from whose care the lunatic is removed under any such order, shall deliver, free of expense, a copy of the reception order and documents accompanying the same to the person executing the order for removal, to be by him delivered to the manager of the institution into which or the person into whose care the lunatic is removed.

(4) Every such copy shall be certified under the hand of the person whose duty it is to deliver the same.

Removal of  
alien to his  
native  
country.

**71.**—(1) Where an alien is detained as a lunatic, and his family or friends desire that he should be removed to the country of which he is a subject, the commissioners, upon application of any member of the family or by a friend of the alien, may inquire into the circumstances of the case and report thereon to a Secretary of State.

(2) A Secretary of State, if satisfied by such report that the person to whom the report relates is an alien and a lunatic, and that his removal is likely to be for his benefit, and that proper arrangements have been made for such removal and for his subsequent care and treatment, may, by warrant, direct the alien to be delivered to the person named in the warrant for the purpose of removal to the country of which he is a subject, and every such warrant shall be obeyed by the person or authority under whose charge the lunatic is.

(3) A warrant under this section shall be sufficient authority for the master of any vessel to receive and detain the lunatic on board the vessel, and to convey him to his destination.

#### *Discharge of Lunatics.*

Discharge of  
private patient.

**72.**—(1) A private patient detained in an institution for lunatics, or under care as a single patient, shall be discharged if the person on whose petition the reception order was made by writing under his hand so directs.

(2) If that person is dead, or incapable by reason of insanity, absence from England, or otherwise, of signing an order for discharge, or, if a patient having been originally classified as a pauper is afterwards classified as a private patient, the person who made the last payment on account of the patient, or the husband or wife, or if there is no husband or wife, or the husband or wife is incapable as aforesaid, the father, or if there is no father, or he is incapable as aforesaid, the mother of the patient, or, if there is no mother, or she is incapable, then any one of the nearest of kin of the patient, may give the direction for his discharge.

(3) If there is no person qualified to direct the discharge of a patient under this section, or no person able or willing to act, the commissioners may order his discharge.

#### **73.** [*Discharge of pauper in hospital or house.*]

Restriction on  
discharge.

**74.** A patient shall not be discharged under the provisions of the two preceding sections if the medical officer of the institution, or, in the case of a single patient, his medical attendant, certifies in writing that the patient is dangerous and unfit to be at large, together with the grounds on which the certificate is founded, unless two of the visitors of the asylum, or the commissioners visiting the hospital or house, or the visitors of the house, or in the case of a single patient, one of the commissioners, after the certificate has been produced, consent in writing to the patient's discharge.

#### **75.** [*Discharge by commissioners of patients in hospital or licensed house, and of single patients.*]

Notice of order  
of discharge.

**76.**—(1) The commissioners when they have made any order of discharge shall forthwith serve the same upon the manager of the institution for lunatics where the patient is detained, or upon the person having charge of the patient as a single patient, and shall give notice of such order—

(a) In the case of a private patient, to the person on whose petition the reception order was made or who made the last payment on account of the patient:

(b) In the case of a pauper, to the authority liable for his maintenance.

(2) Any person who has been duly served with any such order of discharge and detains a patient after the date of discharge appointed thereby shall be guilty of a misdemeanour.



77.—(1) Any three visitors of an asylum may order the discharge of any person detained therein whether he is recovered or not. 53 Vict. c. 5.

(2) Any two such visitors, with the advice in writing of the medical officer, may order the discharge of any person detained in the asylum.

Visitors may discharge patients in asylums.

78. [*Discharge by visitors of lunatics in licensed houses.*]

79. When application is made to the visiting committee of an asylum by a relative or friend of a pauper lunatic confined therein, requiring that he may be delivered over to the custody and care of such relative or friend, any two of the visitors may, if they think fit, discharge the lunatic upon the undertaking of the relative or friend, to their satisfaction, that the lunatic shall be no longer chargeable to any union, county, or borough, and shall be properly taken care of and prevented from doing injury to himself or others.

Discharge of pauper on application of relative or friend.

80.—(1) When the visitors of an asylum order a pauper lunatic confined therein to be discharged, except on the application of a relative or friend, they may, when they think fit, send a notice in writing, signed by the clerk of the asylum, by post or otherwise, of their intention to discharge the lunatic to a relieving officer of the union to which the lunatic is chargeable, or to the clerk of the local authority liable for his maintenance.

Visiting committee may send notice of intention to discharge pauper lunatic to relieving officer or clerk of local authority.

(2) Upon receipt of such notice, the relieving officer or clerk shall cause the lunatic upon his discharge to be forthwith removed to the workhouse of the union to which the lunatic is chargeable, or, if the lunatic is chargeable to a county or borough, to the workhouse of the union from which he was sent to the asylum.

81. [*Discharge from workhouse by guardians.*]

82. The secretary to the commissioners shall, upon the discharge of a person who considers himself to have been unjustly confined as a lunatic, furnish to him upon his request, free of expense, a copy of the reception order and certificate or certificates upon which he was confined, and if the order was made upon petition, also of the petition and statement of particulars upon which the reception order was made.

Copies of reception order and other documents to be furnished.

#### *Recovery of Patient.*

83. [*Notice to be given on recovery of a patient in hospital or licensed house.*]

#### *Inquiry into Cause of Death.*

84. Every coroner shall upon receiving notice of the death of a lunatic within his district, if he considers that any reasonable suspicion attends the cause and circumstances of the death, summon a jury to inquire into the same.

Coroner to inquire into death, if necessary.

#### *Escape and Recapture.*

85. If any person detained as a lunatic under this Act escapes, he may, without a fresh order and certificate or certificates, be retaken at any time within fourteen days after his escape by the manager of the institution for lunatics or the master of the workhouse in which he was detained, or any officer, or servant thereof respectively, or by the person in whose charge he was as a single patient, or by anyone authorised in writing by such manager, master, or person.

Escape and recapture.

86.—(1) If any person detained as a lunatic under lawful authority in England escapes into Scotland or Ireland, notice of the escape shall as soon as practicable be given to the commissioners, who may, by writing under their seal, authorise an application to be made by such person as they think fit to any justice having jurisdiction in the place where the lunatic was so detained for a warrant authorising such person to retake the lunatic and bring him back to such place.

Escape from England into Scotland or Ireland.

(2) Such warrant, when granted, shall in Scotland or Ireland as well as in England be sufficient *prima facie* evidence that the person stated therein to have escaped was so detained as a lunatic under lawful authority as aforesaid, and of the fact of his escape, and shall be sufficient authority for any sheriff in Scotland, or for any justice in Ireland, to countersign the same; and any such warrant so countersigned may be executed in Scotland, or Ireland, as the case

53 Vict. c. 5. may be, by retaking such lunatic and bringing him from thence, to the intent that he may be restored to the custody from which he escaped.

87. [*Escape from Scotland into England or Ireland.*]

88. [*Escape from Ireland into England or Scotland.*]

Limit of time  
of retaking  
lunatic.

89. A warrant, granted under any of the three preceding sections, shall not authorise the retaking of a lunatic after the expiration of the time during which he could have been retaken according to the law in force in the place where he was detained as a lunatic if he had remained there after his escape.

### PART III.

#### JUDICIAL INQUISITION AS TO LUNACY.

90—100. [*The inquisition.*]

101—106. [*Traverse and supersedeas of an inquisition.*]

107. [*Transmission of inquisition and supersedeas to Ireland and England.*]

### PART IV.

#### JUDICIAL POWERS OVER PERSON AND ESTATE OF LUNATICS.

108—110. [*The judge in lunacy and his jurisdiction.*]

111—114. [*The masters in lunacy.*]

115. [*Expiration of orders for the commitment of person.*]

116—130. [*Management and administration of property of lunatics.*]

132. [*Power of county court judge.*]

133—143. [*Vesting orders.*]

144—147. [*Orders of judge in lunacy and certificates of masters.*]

148. [*Percentage and fees.*]

149. [*Rep. Lunacy Act, 1891, sec. 29.*]

### PART V.

#### THE COMMISSIONERS IN LUNACY.

150—158. [*Constitution of the commission.*]

159—161. [*Meetings and procedure.*]

162. [*Reports and records.*]

### PART VI.

#### VISITORS OF LUNATICS.

163—168. [*The Chancery visitors.*]

#### *Visiting Committees of Asylums.*

Constitution of  
visiting  
committee.

169.—(1) For every asylum there shall be a visiting committee appointed annually by the local authority, consisting of not less than seven members.

(2) The visiting committee of a district asylum shall be constituted of the number of members fixed by the agreement under which the asylum is provided.

(3) Where there is more than one asylum, the local authority may appoint one committee for the management and control of all the asylums, and such committee shall appoint a sub-committee for each separate asylum, and may delegate to that sub-committee such powers and duties as the committee from time to time think fit.

(4) Where a county borough has contributed towards the cost of any county asylum, the council of the borough may, if they so desire, appoint to be members of the visiting committee of the asylum such number of members of the council as may be agreed upon, or in default of agreement be determined by the commissioners under the Local Government Act, 1888, or after they have ceased to

hold office, by arbitration under that Act. Such appointment shall be in substitution for any appointment previously made on the part of the borough.

(5) Where a borough, not being a county borough, has contributed towards the cost of any county asylum, and the representatives of the borough on the county council are not entitled to vote for the appointment by the council of visitors of the asylum, the council of the borough may appoint two persons to be members of the committee.

(6) During the continuance of a contract for the reception of the pauper lunatics of a county borough or borough specified in the fourth schedule into a county asylum, the council of the borough shall appoint a visiting committee to visit the lunatics sent from such county borough or borough in the asylum.

**170.** Unless some other day is appointed by the standing orders of the local authority, the visiting committee shall be appointed at the quarterly meeting of the local authority in November.

**171.**—(1) If a visitor dies or resigns, or becomes incapable or disqualified to act, the authority by whom he was appointed shall, as soon as possible, appoint in his place some qualified person, and the new appointment shall be made in the same manner as the annual election of visitors.

(2) The continuing members of a visiting committee may act notwithstanding any vacancy in the body.

**172.**—(1) A visiting committee shall hold office until the first meeting of their successors.

(2) If default is made in electing a visiting committee, the visiting committee last elected shall continue in office as if they had been duly re-elected.

**173.** The visiting committee of every asylum shall, previously to the month of June in every year, examine the accounts of the treasurer and clerk of the asylum, and shall report the same to next meeting of the local authority, or of each local authority to whom the asylum wholly or in part belongs.

**174.**—(1) A member of a visiting committee shall not be interested either in his own name or in the name of any other person in any contract entered into or work done for the committee, and shall not derive any profit or emolument whatsoever from the funds of the asylum.

(2) This provision shall not extend to any interest which a member of a visiting committee may have by reason of his being a shareholder of a company which has entered into any contract with or done any work for the visiting committee, but he shall not be entitled to vote in respect of such contract or work.

**175.**—(1) The provisions of section eighty-two of the Local Government Act, 1888 (*g*), with respect to the proceedings of committees of county councils shall apply to the proceedings of every visiting committee appointed wholly or partly by a county council, and the chairman of such committee may be elected accordingly.

(2) To other visiting committees the following provisions shall apply:—

(a) The members of the committee shall within one month after their election meet at some convenient place, to be named in a notice in writing given by two or more of such members, or by the clerk of the outgoing committee by the direction of two or more of such members;

(b) Notices of meetings shall be given to each member personally, or left at his place of abode, or sent by post seven days at least before the time appointed for the meeting;

(c) The members shall at the first meeting elect one of their number to be chairman of the committee;

(d) The chairman shall preside at all meetings at which he is present. In case of his absence from any meeting the members present shall elect one of their number to be chairman of the meeting;

(e) Any meeting may be adjourned from time to time and from place to place;

(f) The committee shall meet as often as they may think fit;

(g) A meeting may be adjourned by two members; for all other purposes three members shall be a quorum;

53 Vict. c. 5.

Mode of election of visiting committee.

Vacancies to be filled up.

Duration of office.

Examination of accounts.

Members of visiting committee not to be interested.

Meetings of visiting committee.



53 Vict. c. 5.

- (h) Every question shall be decided by a majority of the votes of the members present, and in the event of an equality of votes the chairman shall have a second or casting vote ;
- (i) The clerk of the committee shall, whenever required in writing by the chairman or any two members of the committee, or by the manager of the asylum, and the chairman may, whenever he thinks fit, summon a meeting of the committee.

Clerk to  
visiting  
committee.

**176.**—(1) Every visiting committee shall appoint a clerk (who may also be the clerk to the asylum) at such salary as the committee think fit, and a clerk so appointed may be discharged, and in the event of a vacancy in the office a new clerk may be appointed. The clerk to the visiting committee shall, unless he be sooner discharged, continue in office so long as the committee continue in office.

(2) A visiting committee may sue and be sued in the name of their clerk, and an action by or against a visiting committee shall not abate by the death or removal of the clerk, but the clerk for the time being shall always be deemed the plaintiff or defendant in the action.

**177—182.** [*Justices to appoint visitors of licensed houses.*]

## PART VII.

### VISITATION.

**183—186.** [*Duties of Chancery visitors.*]

#### *Lunatics in Asylums.*

Visits by  
commissioners.

**187.**—(1) Two or more commissioners, of whom one shall be a medical practitioner and one a barrister, shall once at least in each year visit every asylum and shall inquire—

- (a) Whether the provisions of the law have been carried out ;
  - (i) As to the construction of the building ;
  - (ii) As to visitation ;
  - (iii) As to management ;
  - (iv) As to the regularity of the admission and discharge of patients ;
- (b) Whether divine service is performed ;
- (c) Whether any system of coercion is practised, and its result ;
- (d) As to the classification of patients and the number of attendants on each class ;
- (e) As to the occupations and amusements of the patients, and their effects ;
- (f) As to the bodily and mental condition of the pauper patients when first admitted ;
- (g) As to the dietary of pauper patients ;
- (h) As to such other matters as to the visiting commissioners seem fit.

(2) Any one or more of the commissioners may at any time visit any asylum with the like powers as are by this section given to two or more commissioners.

Visits by  
visiting  
committee.

**188.** At least two members of the visiting committee shall together, once at least in every two months, inspect every part of the asylum, and see every patient therein, so as to give everyone, as far as possible, full opportunity of complaint, and examine the order and certificate or certificates for the admission of every lunatic admitted since the last visitation and the general books kept in the asylum ; and shall enter in the visitors' book any remarks they think proper in regard to the condition and management of the asylum and the lunatics therein, and shall sign the book upon every visit.

Visits to  
lunatics  
received under  
a contract.

**189.**—(1) During the continuance of a contract for the reception of the pauper lunatics of a county borough or other borough in a county asylum not less than two members of the visiting committee of the borough appointed for the purpose shall together, at least once in every six months, visit the asylum and see and examine the lunatics received under the contract, and shall report the result of their visit to the council of the borough.

(2) The visitors may, if they think fit, be accompanied by a medical practitioner who is not an officer of the asylum, and they may by order direct payment to such medical practitioner of such a sum as they think fit for his services, and

such sum shall upon the production of the order be paid to the medical practitioner by the treasurer of the borough.

(3) Every report under this section shall be entered among the records of the council of the borough, and may be inspected by the commissioners, and the commissioners may, if they think fit, require the town clerk of the borough to transmit to them a copy of any such report.

**190.**—(1) The visiting committee of every asylum shall in every year lay before each local authority to which the asylum belongs, at their quarterly meeting in November, or at such other time as the local authority appoints, a report in writing of the state and condition of the asylum, and as to its sufficiency to provide the necessary accommodation, and as to its management and the conduct of the officers and servants and the care of the patients therein.

(2) The committee may in the report make such remarks in relation to any matters connected with the asylum as they think fit.

**191—197.** [*Visits of the commissioners to lunatics in hospitals and licensed houses.*]

**198—200.** [*Visits of commissioners to single patients.*]

*Visits to Paupers in Certain Cases.*

**201.**—(1) A medical practitioner appointed by the guardians of a union, and also the guardians of any union shall be permitted, whenever they see fit, between eight in the morning and six in the evening, to visit and examine any pauper lunatic chargeable to the union confined in any institution for lunatics, unless the medical officer of the institution delivers to the person or persons intending to make the visit a statement signed by him certifying that for the reasons set forth in the statement the visit would be injurious to the lunatic.

(2) The medical officer shall forthwith enter in the medical journal the reasons set forth in the statement, and shall sign the entry.

**202.**—(1) Every pauper lunatic not in an institution for lunatics shall once in every quarter of a year (reckoning the several quarters as ending on the thirty-first of March, the thirtieth of June, the thirtieth of September, and the thirty-first of December) be visited, if not resident in a workhouse, by the medical officer of the union, or district in which the lunatic is resident, and, if resident in a workhouse, by the medical officer of the workhouse.

(2) The guardians of every union shall from time to time furnish to every medical officer of the union forms for the prescribed returns relating to pauper lunatics not in an institution for lunatics.

(3) Where a pauper lunatic has, by order of the visiting committee, been delivered over to the custody of a relative or friend to whom an allowance is made for the maintenance of the lunatic, the medical officer of the union or district in which the lunatic resides shall, within three days after each quarterly visit, send to the visiting committee a report stating whether in his opinion the lunatic is properly taken care of, and may properly remain out of an asylum.

(4) Each medical officer shall be paid two shillings and sixpence for each quarterly visit to a pauper not in a workhouse, and in addition two shillings and sixpence for every report sent to a visiting committee under this section, and those sums shall be paid by the same persons and be charged to the same account as the relief of the pauper.

(5) Nothing in this section shall relieve any medical officer from any obligation under this Act to give notice to a relieving officer or overseer when it appears to such medical officer that a pauper lunatic ought to be sent to an asylum.

**203.** [*Visitation of workhouses by commissioners.*]

*Special Visits.*

**204.**—(1) If, for reasons to be entered on the minutes of the board, any case appears to the commissioners to call for immediate investigation, they may by order direct any competent person or persons to visit and report upon the mental and bodily condition of any lunatic or alleged lunatic in any institution for lunatics or workhouse, or under the charge of any person as a single patient, and to inquire into and report upon any matters into which the commissioners are authorised to inquire.

53 Vict. c. 5.

Reports by  
visiting  
committee.

Visits to  
paupers in  
institutions for  
lunatics.

Visits to  
pauper  
lunatics not in  
an institution  
for lunatics.

Power to  
appoint a  
person to  
inquire into  
cases requiring  
immediate  
investigation.

53 Vict. c. 5. (2) Every such person shall, for the special purposes mentioned in the order, have all the powers of a commissioner.

(3) The commissioners may allow to any such person a reasonable sum for his services and expenses.

Visits to  
lunatics so  
found, and  
other lunatics.

**205.**—(1) The Lord Chancellor in the case of a lunatic so found by inquisition, and the Lord Chancellor or a Secretary of State in any other case, may at any time, by an order in writing under the hand of the Lord Chancellor or the Secretary of State, as the case may be, directed to the commissioners or any of them, or to any other person, require the persons or person to whom the order is directed to visit and examine a lunatic or alleged lunatic and to inspect any place in which a lunatic or alleged lunatic is detained, and to report to the Lord Chancellor or to a Secretary of State upon such matters as in the order are directed to be inquired into.

(2) Every person (not being a commissioner) employed under this section may be paid such sum of money for his services as the Lord Chancellor or a Secretary of State thinks reasonable.

(3) Every person so employed, whether a commissioner or not, shall be allowed his reasonable travelling or other expenses while so employed.

(4) Sums payable under this section shall be paid out of moneys provided by Parliament.

*Lunatics in Private Families and Charitable Establishments.*

Lunatics in  
private  
families and  
charitable  
establishments.

**206.**—(1) If it comes to the knowledge of the commissioners that any person appears to be without an order and certificates detained or treated as a lunatic or alleged lunatic by any person receiving no payment for the charge, or in any charitable, religious, or other establishment (not being an institution for lunatics), they may require the person by whom the patient is detained, or the superintendent or principal officer of the establishment, to send to them, within or at such time or times as the commissioners may appoint, a report or periodical reports by a medical practitioner of the mental and bodily condition of the patient, with all such other particulars as to him and his property as they think fit.

(2) Any one or more of the commissioners may at any time visit any such patient and report the result of the visit to the commissioners, and may exercise, with respect to such patient, all the powers (except that of discharge) given to them as to persons confined in any institution for lunatics, or as single patients.

(3) The commissioners may, if they think fit, transmit any reports received by them, or may report the results of any inquiries made by them under this section, to the Lord Chancellor, who may thereupon make an order for the discharge of the patient from the custody in which he is detained or for his removal to an institution for lunatics, or to such other custody as he may think fit, and the expenses properly incurred of carrying any such order into effect and of maintaining the patient if so removed shall, if the order so directs, be paid by the guardians of the union in which the patient was found, until the authority legally liable for his maintenance has been ascertained; and such guardians shall have the same right to recover any such expenses paid by them against the lunatic and his estate, and the person or authority legally liable for his maintenance as in the case of orders for maintenance under this Act.

(4) Where an order is made by the Lord Chancellor under this section for removal of a lunatic to an asylum, any justice of the county or borough in which the asylum is may exercise all the authorities conferred upon a justice by this Act, for the purpose of making the lunatic's property applicable to his maintenance and for maintaining him as a pauper.

(5) All reports and particulars sent to the commissioners under this section shall be kept by them, and shall be open to inspection only by the commissioners and the Lord Chancellor, and by such persons as the Lord Chancellor directs.

PART VIII.

LICENSED HOUSES AND HOSPITALS.

**207.** [*Restrictions on new licences.*]

**208—209.** [*Jurisdiction of commissioners and justices.*]

**210—223.** [*Conditions on which licences granted.*]



*Application of Fees for Licences.*

53 Vict. c. 5.

**224.**—(1) All moneys received for licences granted by any justices shall be paid by the clerk of the peace for the county or borough into the county or borough fund.

(2) The clerk of the peace for every county or borough shall keep an account of all moneys received and paid by him as aforesaid, and of all moneys otherwise received or paid by him in the execution of this Act.

(3) Such account shall be made up to the thirty-first day of March in each year, or to such other date as the Local Government Board appoint, and shall be signed by two at least of the visitors for the county or borough; and in the case of the clerk of the peace of a county, shall be audited by the same person, in the same manner, and with the same incidents and consequences as the accounts of officers of the county council under the Local Government Act, 1888.

**225.**—(1) The justices of every county or borough in quarter or special sessions may order such sums as may be reasonable for payment of the remuneration or salary of the visitors and their clerk, and of all other expenses incurred by or under the authority of the justices or visitors in the execution of this Act, to be paid to the clerk of the peace of the county or borough out of the county or borough fund.

(2) Every such sum shall be paid out of the county or borough fund by the treasurer thereof, and shall be allowed in his accounts, on the authority of the order by the justices for the payment thereof.

(3) Every sum ordered to be paid by justices of a county under this section shall be subject to the sanction of the standing joint committee of the county council and quarter sessions as provided by section sixty-six of the Local Government Act, 1888.

**226—229.** [*Management of licensed houses.*]

**230—237.** [*Hospitals.*]

Application of moneys received for licences by clerks of the peace.

51 & 52 Vict. c. 41.

Balance of payments over receipts may be paid out of the funds of the county or borough.

## PART IX.

## COUNTY AND BOROUGH ASYLUMS.

*Obligation to provide Asylums.*

**238.**—(1) Every local authority, as defined by this Act, shall provide and maintain an asylum or asylums for the accommodation of pauper lunatics.

(2) Where the asylum accommodation of a local authority appears to the local authority to be insufficient, the local authority may supply the deficiency by exercising the powers by this Act conferred for providing asylum accommodation, or by rebuilding or enlarging any existing asylum.

(3) For the purpose of providing asylum accommodation, a local authority may purchase any licensed or other houses and land.

(4) For the purpose of providing asylum accommodation a local authority not being a county council shall have the same powers as are by section sixty-five of the Local Government Act, 1888, conferred upon a county council.

**239.** A local authority shall exercise the powers conferred by this Act for providing asylum accommodation by a visiting committee, subject, if the local authority thinks fit, to their directions as to which of the methods of providing asylum accommodation authorised by this Act shall be adopted.

Local authorities to provide asylums.

51 & 52 Vict. c. 41.

Powers to be exercised by a visiting committee.

*Local Authority defined.*

**240.** The council of every administrative county and county borough respectively constituted under the Local Government Act, 1888, and the council of each of the boroughs specified in the fourth schedule, or in the case of the City of London the common council, shall be a local authority for the purposes of this Act.

Local authority defined.

*Powers for providing Asylums.*

**241.** A local authority may provide asylum accommodation for pauper and private patients (*h*), together or in separate asylums, and may provide separate

Power to provide asylums for pauper and private patients.

(*h*) **Private patient**, i.e., a patient who is not a pauper. Sec. 341, *post*.

53 Vict. c. 5. asylums for idiots or patients suffering from any particular class of mental disorder.

Modes in which asylum may be provided. **242.**—(1) For the purpose of providing asylum accommodation, a local authority may do all or any of the following things:—

- (a) Provide and maintain an asylum alone;
- (b) Agree to unite in providing and maintaining a district asylum with any other local authority or local authorities;
- (c) Agree to unite with any other local authority or local authorities upon such terms as to payment and otherwise as may be thought proper for the joint use as a district asylum of any existing asylum, and, if they think fit, for the enlargement of the same.

(2) Where an agreement to unite has been entered into, an agreement for further union may be entered into between all or any of the local authorities concerned, and for all the purposes of this Act an agreement for further union shall be deemed to be an agreement to unite.

(3) An agreement to unite shall not be carried into effect without the approval of a Secretary of State.

Contract between council of county borough and visiting committee.

**243.**—(1) The council of a county borough may contract with the visiting committee of an asylum for the reception of the pauper lunatics of the borough into the asylum.

(2) Any such contract may be made for such consideration and upon such terms as to duration, determination, and otherwise as may be agreed between the council of the borough and the visiting committee of the asylum.

(3) While a contract under this section is in force, making adequate provision for the pauper lunatics of the borough, the council of the borough shall not be required to provide an asylum alone or in union.

(4) A contract under this section shall not be carried into effect until approved by a Secretary of State.

Provision for case where a county borough has contributed to the cost of a county asylum.

**244.**—(1) Where a county borough has contributed to the cost of building and furnishing a county asylum, the existing liability of the borough council shall continue until a new arrangement is made under this section, and the county council shall provide accommodation for and maintain pauper lunatics sent from the borough on the same terms as hitherto.

(2) Any new arrangement may be made between the county council and all the borough councils concerned, with respect to any such asylum; and if any such new arrangement is made, the borough and county councils may carry into effect any adjustment of property, debts, and liabilities which is the subject of such arrangement. If any council desires to make a new arrangement, and any or all of the other councils refuse to agree to the same, the matter shall be referred to the commissioners under the Local Government Act, 1888, or, after they have ceased to hold office, to arbitration under that Act.

51 & 52 Vict. c. 41.

Borough contributing to county asylum exempt.

**425.**—(1) Where any borough specified in the fourth schedule contributes to a county asylum, such borough shall, so long as it continues to contribute, be deemed to satisfy the requirements of this Act with respect to asylum accommodation.

(2) The council of the borough may resolve for the purpose of providing asylum accommodation to separate from the county to which it contributes.

(3) Notice of the resolution to separate shall be given to the clerk of the county council, and upon the expiration of six months from the date of the notice, the council of the borough shall be subject to the obligations imposed by this Act of providing asylum accommodation.

(4) Notwithstanding a notice to separate, the council of the borough shall continue liable to contribute to the county asylum, until all the pauper lunatics therein belonging to the borough have been removed.

Where borough contracts with county powers of borough to provide an asylum to cease on determination of contract.

**246.** Where any borough specified in the fourth schedule has contracted for the reception of the lunatics of the borough in the asylum of the county in which the borough is situate, the borough shall, on the determination of the contract, cease to be a local authority under this Act, and . . . (i) shall be liable to contribute to the county rate of the county in respect of such lunatic asylum in like manner as the rest of the county.

(i) **Section 246.**—The omitted words are repealed by the Lunacy Act, 1891, sec. 29, *post*.

*Power of Secretary of State to enforce Act.*

53 Vict. c. 5.

**247.** If the commissioners report to a Secretary of State that any local authority has failed to satisfy the requirements of this Act as regards asylum accommodation, the Secretary of State may require the local authority to provide such accommodation in such manner as he may direct, and the local authority shall forthwith carry the requisition into effect.

Default by county or borough in providing asylum.

*Agreements to Unite.*

**248.**—(1) Agreements to unite shall state—

- (a) The number of visitors to be chosen by each contracting party ;
- (b) The proportion in which the expenses of providing the asylum are to be borne by each contracting party, and the basis upon which such proportion is fixed ;
- (c) Where the agreement provides for the joint user of an existing asylum, the sum to be paid by each contracting party towards expenses already incurred.

Provisions to be contained in agreements in unite.

Form 21.

(2) Provisions in any agreement to unite, subjecting the visiting committee to any control not provided for by this Act, except the control of the Secretary of State, shall be of no effect.

**249.** The proportion in which the expenses of providing a district asylum are to be borne, as between the uniting counties and boroughs, may be fixed either according to the extent of the accommodation required for each county and borough, or in proportion to the respective population of each county or borough according to the last census for the time being.

Apportionment of expenses.

**250.** An agreement to unite may with the consent in writing of a majority of the visitors of each contracting local authority and with the sanction of the Secretary of State be altered or varied, but not so as to contain any provision which might not have been contained in an agreement to unite in the first instance.

Power to vary agreement to unite.

**251.**—(1) Every agreement to unite shall as soon as possible be reported to the local authorities interested.

(2) The original of every agreement to unite, and of every agreement varying an agreement to unite, shall be delivered to the clerk of the local authority within whose administrative area the asylum to which the same relates is situate or is intended to be situate, and shall be kept by him among the records of the local authority.

Agreement to unite to be reported and delivered to clerk of local authority.

(3) The original agreement so delivered may be inspected without payment by any commissioner and by any member of the council of any of the contracting local authorities.

(4) The clerk of a local authority to whom any such agreement is delivered shall cause copies to be made thereof, and shall within twenty days after delivery to him of the original send one copy to the commissioners and another copy to each of the contracting local authorities.

**252.** Where under an agreement to unite a sum is to be paid towards the expenses already incurred by a local authority in relation to an existing asylum, the sum shall be paid to the treasurer of the local authority as part of the county or borough fund and shall be applied to purposes for which capital is properly applicable.

Application of money paid for expenses already incurred.

**253.** When an agreement to unite has been reported, each local authority shall elect out of their body the number of visitors agreed to be chosen by them, and the visitors so chosen shall carry the agreement into effect and shall be the visiting committee of the asylum until the election of a visiting committee in their place.

Visitors to be chosen.

*Purchase of Land and other Incidental Powers.*

**254.**—(1) A visiting committee authorised to provide asylum accommodation may agree upon plans and estimates, and contract for the purchase of lands and buildings with or without fittings and furniture, and for the erection, restoration, enlargement, and furnishing of buildings, and for the supply of clothing, and for all the matters necessary for carrying into effect the authority conferred upon them.

Powers of committee to provide asylum.



53 Vict. c. 5.

(2) Plans and contracts (*k*) agreed upon by a visiting committee shall not be carried into effect until approved by a Secretary of State.

(3) A visiting committee shall report to the local authority or local authorities by whom they were elected, all plans, estimates, and contracts agreed upon, and also the amount to be paid by each local authority, and such plans, estimates, and contracts shall be subject to the approval of the local authority, to whom they are to be reported, except where the amount to be expended does not exceed an amount previously fixed by the local authority.

(4) In the event of a difference between any local authorities as to whether any plan, estimate, or contract ought to be approved, the local authority withholding approval shall, within four months after the plan, estimate, or contract has been reported to them, send to a Secretary of State a statement in writing of their objections, and the Secretary of State may direct the plan, estimate, or contract to be carried into execution, with or without any alterations, or he may direct such other plan, estimate, or contract, as he thinks fit, to be carried into execution, and the decision of a Secretary of State under this section shall be final.

Additions to  
asylums for  
private  
patients.

**255.** The visiting committee of an asylum, with the consent of each local authority by whom the asylum is provided, and with the approval in writing of a Secretary of State, may make such alterations in or additions to the asylum either by way of detached buildings or blocks of buildings or otherwise as they think fit for the purpose of providing accommodation for private lunatics.

Contracts.

**256.**—(1) Every person entering into a contract with a visiting committee shall give sufficient security for due performance of the contract.

(2) Every such contract and all orders relating thereto shall be entered in a book to be kept by the clerk of the visiting committee, and when the contract is completed the book shall be deposited and kept among the records of the local authority, or, when more than one local authority is interested, then among the records of the local authority which contributes the largest proportion of the expenses of the contract.

(3) Every such book may be inspected at all reasonable times by any person contributing to the rates of the local authority interested in the contract.

(4) A copy of every such book shall be kept at the asylum to which the contract relates.

Enlargement of  
district  
asylum.  
Burial  
grounds.

**257.** A district asylum shall not be enlarged or improved without the consent of all the parties to the agreement under which the same is provided.

**258.**—(1) The visiting committee of an asylum, with the consent of the local authority by whom they are appointed and of a Secretary of State, may provide for the burial of lunatics dying in the asylum, and of the officers and servants belonging thereto—

(a) By appropriating any land already belonging to them or acquiring any land, not exceeding in either case two acres, for enlarging an existing burial ground, or for providing a new burial ground;

(b) By agreeing with any corporation or persons or body of persons willing to provide for the burial of such lunatics and other persons as aforesaid.

(2) The committee may procure the consecration of a new or enlarged burial ground, and in the case of a new burial ground, may provide for the appointment of a chaplain therein.

(3) The incumbent of the parish in which a new or enlarged burial ground provided by a visiting committee is situate, shall not be entitled to any fee for the interment of any person buried therein by direction of the committee.

Burial of  
lunatics.

**259.** Where a visiting committee undertakes the burial of any pauper lunatic, and the public burial ground of the parish where the death took place is closed or inconveniently crowded, the burial may take place in a public burial ground of some other parish, with the consent of the minister and churchwardens of that parish; and in that case the visiting committee shall pay to the person entitled thereto the burial fees payable under any Act or according to the custom of the place of burial.

(*k*) **Plans and contracts.**—Add after the word “contract” the words “for the purchase of lands and buildings and for the erection, restoration, and enlargement of buildings.” Lunacy Act, 1891, sec. 16, *post*.

**260.** For the purpose of the purchase of lands by visiting committees the Lands Clauses Acts are hereby incorporated with this Act, except the provisions relating to the purchase of land otherwise than by agreement, the sale of superfluous lands, the recovery of forfeitures, penalties, and costs and access to the special Act, and the expression "promoters of the undertaking" wherever used in the Lands Clauses Acts shall mean a visiting committee, and the expression "special Act" shall mean this Act.

53 Vict. c. 5.

Incorporation  
of Lands  
Clauses Acts.

**261.**—(1) A visiting committee, instead of purchasing any land or buildings which they are authorised to purchase, may take a lease thereof for any term not less than sixty years at such rent and subject to such covenants as the committee think fit.

Power to take  
land on lease.

(2) A visiting committee, with the sanction of each local authority for whom they are authorised to act, may hire or take on lease from year to year, or for any term of years, at such rent and subject to such covenants as they think fit, any land or buildings for the employment of the patients in the asylum, or for the temporary accommodation of any pauper lunatics for whom the accommodation in the asylum is inadequate.

(3) Lands and buildings hired or taken on lease under this section shall be deemed part of the asylum, and be subject to all existing provisions as to the asylum.

**262.** The asylum to be provided by any local authority either solely or jointly, may be situate without the limits of the administrative area of the local authority, and if the asylum or any part thereof is so situate, the council and justices of the county, county borough, or borough to which the asylum wholly or in part belongs shall have full power and authority to act in the county or borough in which the asylum is situate, so far as concerns the regulation of the asylum and the powers conferred by this Act, as if the asylum were situate within the proper jurisdiction of such council and justices.

Situation of  
asylum.

**263.** Lands and buildings already or to be hereafter purchased or acquired for the purposes of any asylum, and any additional building erected or to be erected thereon, shall, while used for those purposes, be assessed to county, parochial, district, and other rates made after the commencement of this Act on the same basis and to the same extent as other lands and buildings in the same parish, township, or district.

Rating of  
asylums.

**264.** Any lands acquired for the purposes of this Act may be conveyed to the local authority being a county council, or in cases where the local authority is the council of a borough to the municipal corporation of the borough, or, where more than one local authority is interested, to the local authorities interested as joint tenants.

How lands to  
be conveyed.

**265.** Any lands or buildings which have been used for the purposes of an asylum, and have been found unsuitable, or are otherwise not required for such purposes, may, with the consent of a Secretary of State, and subject to such conditions as he thinks fit to impose, be retained by the local authority, and appropriated for any purposes for which the local authority is empowered to acquire land.

Power to  
retain land  
unsuitable or  
not required  
for asylum  
purposes.

**266.**—(1) The visiting committee of an asylum may, of their own authority, order all necessary and ordinary repairs. They may also, of their own authority, order all necessary and proper additions, alterations, and improvements which the asylum may require, to an amount not exceeding four hundred pounds in any one year.

Repairs,  
alterations,  
improvements.

(2) An order for repairs, additions, alterations, or improvements to an amount exceeding one hundred pounds shall not be given, unless the order is approved and signed by at least three visitors at a meeting of the visiting committee duly summoned upon notice that the proposed expenditure is to be considered thereat.

(3) Any expenditure incurred, except for repairs, shall be reported by the visiting committee to the local authority on whose behalf the expenditure was incurred.

(4) In the case of a district asylum, the visiting committee shall apportion expenses incurred under this section in the proportion in which each local authority has contributed to the erection of the asylum, or where any other proportion is fixed by an agreement to unite then in the proportion so fixed; and where any such agreement only provides in what proportion the expense of

53 Vict. c. 5. repairs shall be borne, the expense of additions, alterations, and improvements shall be borne in the same proportion.

(5) The visiting committee shall make an order for payment of the expenses incurred under this section upon the treasurer of the local authority, or, in the case of a district asylum, shall make an order upon the treasurer of each local authority concerned for payment of the expenses apportioned to that local authority, and the treasurer upon whom the order is made shall pay the amount mentioned in the order out of the county or borough fund.

*Dissolution of Agreement to Unite.*

Power to dissolve a union.

**267.**—(1) A visiting committee, with the consent of a Secretary of State, may by a resolution passed by a majority of the whole number of the members of the committee at a meeting summoned upon notice that the resolution is to be proposed thereat dissolve an agreement to unite.

(2) Every local authority interested under an agreement to unite shall, before a dissolution of the agreement takes effect, elect a committee to provide asylum accommodation in accordance with the provisions of this Act.

(3) In case an agreement to unite is dissolved between any local authority not having an asylum and a local authority which has an asylum and is in receipt of an annual fixed payment as remuneration for any expenses incurred for the benefit of the local authority making the payment, such last-mentioned local authority may raise such a sum of money for compensation to the local authority receiving the payment as may be agreed upon and approved by the visiting committee by whom the union is dissolved.

(4) Upon the dissolution of an agreement to unite the visiting committee may divide the real and personal property held for the purposes of the agreement among the several local authorities, between whom the agreement existed, in the proportion in which they contributed thereto or are interested therein, or in such proportions as the visiting committee, with the consent of a Secretary of State, think fit. And a sum of money of such amount, and to be raised by any of the local authorities parties to the agreement in such proportions as the committee, with the consent of a Secretary of State, approve, may be awarded to any local authority instead of a share or part of a share in such property.

(5) Any money to be raised under this section may be raised in the same manner and by the same means as other moneys appointed to be raised for the purposes of this part of this Act.

*Cancellation of Contracts.*

Power to cancel contract.

**268.**—(1) Where any lands contracted to be purchased or taken in exchange by a visiting committee are found unsuitable, or are not required, the committee, or any committee appointed in their place, may, with the consent of a Secretary of State, and upon payment of such sum, if any, as a Secretary of State approves, procure a release from the contract and execute a release to the other contracting party.

(2) The consideration, if any, for such release, and all expenses in relation to the contract and release, shall be raised in the same manner as if the same were payable in respect of the purchase money of lands for the purposes aforesaid.

*Admission of Pauper Lunatics from other Counties or Boroughs.*

Power to contract for reception of lunatics.

**269.**—(1) A visiting committee (in this section called the contracting committee) may contract with the manager of a licensed house, or subject as in this section provided with any other visiting committee (in this section called the receiving committee), for the reception into that house, or into the asylum of the receiving committee, of all or any of the pauper lunatics of the local authority for which the contracting committee is acting, or for the use and occupation of the whole or any part of the house, upon such terms as may be agreed.

(2) Where a contract between a visiting committee and the subscribers to a hospital for the reception of pauper patients into the hospital was subsisting on the twenty-sixth of August one thousand eight hundred and eighty-nine, such contract shall continue in force, and on its expiration a new contract may be entered into with such subscribers subject to the provisions of this section.



(3) A contract between a visiting committee and any other visiting committee or the manager of a licensed house or the subscribers to a hospital for the reception of the lunatics of the local authority for which the contracting committee is acting (hereinafter called a reception contract) shall not be made for more than five years, but such contract may be renewed subject to the provisions of this section. 53 Vict. c. 5.

(4) Where a reception contract has been made, whether before or after the passing of this Act, on behalf of a borough with the visiting committee of an asylum, and the contract is determinable by the parties thereto, or either of them, the contract shall not be determined without the consent of a Secretary of State.

(5) A reception contract shall not be carried into effect until approved by a Secretary of State, and any reception contract may be determined by a Secretary of State.

(6) A reception contract with the manager of a licensed house shall determine if the house ceases to be licensed.

(7) A reception contract shall not exempt the local authority for which the contracting committee is acting from the requirements of this Act as regards asylum accommodation if a Secretary of State determines the contract, although the term for which the contract was entered into has not expired.

(8) Except as in this section provided a visiting committee shall not after the commencement of this Act enter into a reception contract with subscribers to a hospital.

(9) Where a reception contract has been made by a visiting committee, the local authority for whom the visiting committee acts shall, while the contract subsists, defray out of the county or borough fund so much of the weekly charge agreed upon for each pauper lunatic as in the opinion of the visiting committee represents the sum due for the accommodation, not exceeding one fourth of the entire weekly charge, in exoneration to that extent of the union to which the maintenance of any such pauper lunatic is chargeable.

(10) Where a reception contract has been entered into by the visiting committee of an asylum with the subscribers to a hospital or the manager of a licensed house, the hospital or house may be visited by any members for the time being of the committee of the asylum.

**270.**—(1) Where it appears to the visiting committee of an asylum that the asylum is more than sufficient for the pauper lunatics who for the time being can be lawfully received, the committee may by resolution permit any other pauper lunatics to be received into the asylum.

Cases where asylum is more than sufficient for pauper lunatics.

(2) A resolution under this section may require that no pauper lunatic be admitted thereunder without an undertaking by the minute of the guardians of the union to which the lunatic is chargeable for the payment of the expenses of maintenance of the lunatic, and of his burial if he dies in the asylum, as well as for his removal within six days after notice from the manager of the asylum.

(3) A resolution under this section may be rescinded or varied.

#### *Admission of Private Patients.*

**271.**—(1) Private patients may be received into any asylum upon such terms as to payment and accommodation as the visiting committee think fit. All enactments as to the conditions on which such lunatics may be received into hospitals or licensed houses shall be applicable to private patients received into such asylums.

Provisions as to private patients in asylums.

(2) An account of the amount, by which the sums charged for private patients received in the asylum exceed the weekly charges for pauper lunatics sent from or settled in any place, parish, or borough which has contributed to provide the asylum, shall be made up to the last day of each year, and the surplus, if any, after carrying to the building and repair funds such sums, and providing for such outgoings and expenses as the visiting committee consider proper, shall be paid to the treasurer of the local authority to which the asylum belongs, or in the case of an asylum belonging to several local authorities, to their respective treasurers in the proportions in which such local authorities or the justices of the counties and boroughs whose powers have been transferred to them have contributed to the asylum, and shall be applied as part of the county or borough fund.

53 Vict. c. 5.

*Approval of Secretary of State*

Mode of  
obtaining  
approval of  
Secretary of  
State.

**272.** For the purpose of procuring the approval of a Secretary of State to any agreement, contract, or plan requiring approval under this Act, the agreement, contract, or plan, with an estimate of the probable cost of carrying it into effect, shall be submitted to the commissioners, and to the Secretary of State, and the commissioners shall make such inquiries as they think fit, and shall report thereon to the Secretary of State, who may approve the agreement, contract, or plan, with or without modification, or may refuse his approval.

*Provisions for Raising Expenses.*

**273.** The expenses to be paid and contributed by a local authority for the purposes of this Act shall be paid by the treasurer of the local authority out of the county or borough fund (7) as the case may be to the treasurer of the asylum to which such local authority either alone or jointly pays or contributes.

*Borrowing Powers.*

Power to  
borrow.

51 & 52 Vict.  
c. 41.  
45 & 46 Vict.  
c. 50.

**274.**—(1) For the purpose of paying any money payable under this Act, or for repaying any moneys borrowed under this Act or any former Act, authorising borrowing for purposes of asylum accommodation, the local authority may with the consent of the Local Government Board, and subject to the provisions of the Local Government Act, 1888 (m), and the Municipal Corporations Act, 1882, according as the same respectively are applicable to the local authority, borrow on the security of the county or borough fund, and of any revenue of the local authority, or on either such fund or revenues or on any part of the revenues, such money as the local authority requires.

(2) The Public Works Loan Commissioners may, if they see fit, make any loan for the purposes of this Act to the local authority upon the security of any fund or revenues applicable to the purposes of this Act.

*Rules and Regulations.*

General rules  
and regulations  
to be framed.

**275.**—(1) The visiting committee of an asylum shall within twelve months after the completion of the asylum prepare and submit to a Secretary of State general rules for the government of the asylum, and such rules when approved by a Secretary of State shall be printed and observed.

(2) The general rules of every asylum may be altered and varied with the approval of a Secretary of State.

(3) The visiting committee shall also make regulations (not inconsistent with the general rules) setting forth the number and description of officers and servants and their respective duties and salaries.

(4) The regulations may provide that any number of beds in such part of the asylum as the committee think fit shall be reserved for the cases specified in the regulations, and in that case the asylum shall for the purposes of this Act, as respects the admission of cases not within the class for which beds are reserved, be deemed full when there are no vacant beds except those so reserved, but the committee may, if they think fit, fill any reserved beds.

(5) The regulations may also provide for the exclusion of any persons afflicted with any malady which the visiting committee deem contagious or infectious or coming from a place in which such a malady may be prevalent, and for the absence for a period not exceeding four days of a patient from the asylum by permission of the manager.

(6) The committee shall also determine the diet of the patients.

*Officers of Asylums.*

Officers of  
asylums.

**276.**—(1) The visiting committee of every asylum shall appoint—

(a) A chaplain, who shall be in priest's orders, and shall be licensed by the bishop of the diocese;

(b) A medical officer, who shall reside in the asylum and shall not be the clerk or treasurer of the asylum;

(7) **Expenses of local authority.**—The expenses of the county council are defrayed out of the special county rate, and those of the common council out of the City's corporate funds. See the Loc. Govt. Act, 1888, sec. 3 and note thereto. *ante*, vol. i.

(m) **Borrowing.**—See the Loc. Govt. Act, 1888, sec. 40 (9), *ante*, vol. i.

(c) A superintendent of the asylum, or, if there is more than one division, a superintendent of each division of the asylum, who shall be the resident medical officer or one of the resident medical officers of the asylum, or of the division of which he is appointed superintendent, unless a Secretary of State authorise the committee to appoint some other person than a medical officer to be superintendent;

(d) A clerk;

(e) A treasurer;

(f) Such other officers and servants as they think fit.

(2) The visiting committee may appoint a minister of any religious persuasion to attend patients of the religious persuasion to which the minister belongs.

(3) The committee may remove any person appointed under this section, and if the office of chaplain, medical officer, superintendent, clerk, or treasurer becomes vacant, the committee shall appoint a person to fill the vacancy subject to the restrictions affecting the original appointment, and they may in their discretion fill any vacancies among other officers and servants of the asylum.

(4) The committee may also appoint a visiting physician or surgeon to the asylum.

(5) The salaries, wages, and remuneration of every person appointed under this section shall be fixed by the committee.

**277.**—(1) The licence of the chaplain of an asylum shall be revocable by the bishop.

(2) The chaplain, or his substitute approved by the committee, shall perform in the chapel of the asylum, or in some other convenient place belonging to the asylum, divine service according to the rites of the Church of England on every Sunday, Christmas Day, and Good Friday. He shall also perform divine service, and such other services according to the rites of the Church of England as the committee direct, at such times as they appoint. The chaplain.

(3) If a patient is of a religious persuasion differing from that of the Established Church, a minister of his persuasion, at the request of the patient or his friends, may, with the consent of the medical officer and under such regulations as he approves, visit the patient.

**278.**—(1) The clerk of the asylum shall keep all books and documents which the visiting committee are required to keep or direct to be kept. Books and accounts.

(2) He shall also keep an account of the receipts and expenditure on account of the asylum.

(3) Before the thirtieth day of September in each year, or such other date as the Local Government Board appoint, he shall send an abstract of the account for the previous year, ending on the thirty-first day of March, or such other date as the Local Government Board appoint, to the Local Government Board, and to the commissioners.

(4) The abstract shall contain such particulars and be in such form as the Local Government Board direct.

(5) Within one month from the receipt of the abstract a copy thereof shall be laid before both Houses of Parliament, if Parliament is then sitting, and if not, within one month from the commencement of the next session.

(6) The treasurer and every officer of an asylum who receives or expends money or goods on account of the asylum shall keep accounts of his receipts and expenditure.

(7) This section shall not affect any order made by the Local Government Board before the commencement of this Act.

**279.** [*Rep. by Lunacy Act, 1891, sec. 29, post.*]

#### *Pensions.*

**280.**—(1) The visiting committee may grant to any superintendent, chaplain (u), matron, or other officer or servant of the asylum, who is incapacitated by confirmed illness, age, or infirmity, or who has been an officer or servant in the asylum for not less than fifteen years and is not less than fifty years old, such superannuation allowance as the committee think fit. Pensions to officers.

(n) **Chaplain.**—A non-resident chaplain, who does not give his whole time to his duties, is entitled to a pension. *Reg. v. Hereford Coun. Council*, 55 J. P. 72; 63 L. T. (N. S.) 245.



53 Vict. c. 5.

(2) Where the offices of superintendent and matron are held by man and wife, and a superannuation allowance has been granted to the superintendent, the committee may, if the matron has been an officer of the asylum for not less than twenty years, grant her such superannuation allowance as they think fit, although she is not incapacitated by illness, age, or infirmity: Provided that, if any such matron is appointed to a public office or to any office under this Act in respect of which she receives a salary, her superannuation allowance shall, so long as she receives such salary, be suspended or diminished by the amount of the salary according as the salary is or is not greater than the allowance.

(3) A superannuation allowance shall not exceed two thirds of the salary paid to the superannuated person at the date of superannuation and such further sum (if any) as the visitors think fit to grant, having regard to the value of the lodgings, rations, and other allowances enjoyed by the superannuated person.

Mode in  
which pension  
to be granted.

**281.**—(1) A superannuation allowance shall not be granted unless seven clear days' notice of the meeting at which the same is to be granted, and of the intention to determine thereat the question of such grant, has been given, nor unless three visitors concur in and sign the order granting the same.

(2) A superannuation allowance granted under this Act shall be paid out of the county or borough fund as the case may be.

(3) A superannuation allowance payable out of the county fund shall not be paid until the grant thereof has been confirmed by the county council.

Service in  
several  
asylums of the  
same local  
authority.

**282.** When any officer is transferred from one asylum to another, wholly or in part belonging to the same local authority, his service in all such asylums shall be counted for the purpose of computing his pension, superannuation allowance, or gratuity for length of service, as if all such asylums had constituted only one asylum.

## PART X.

### EXPENSES OF PAUPER LUNATICS.

#### *Weekly Expenses.*

Weekly sum to  
be fixed.

**283.**—(1) Every visiting committee shall fix a weekly sum, not exceeding fourteen shillings, for the expenses of maintenance and other expenses of each pauper lunatic in the asylum (o), and of such amount that the total of such weekly sums shall be sufficient to defray such expenses and also the salaries of the officers and attendants of the asylum, and such weekly sum may from time to time be altered.

(2) If fourteen shillings a week is found insufficient for the purposes aforesaid, the local authority to whom the asylum belongs, may by order direct such addition to be made to the weekly sum as to the local authority seems necessary, and every such order shall be signed by the clerk of the local authority, and forthwith published in a local newspaper.

(3) A committee may fix a greater weekly sum, not exceeding fourteen shillings, to be charged in respect of pauper lunatics other than those sent from or settled in a parish or place within the county or borough to which the asylum belongs.

(4) Any excess created by the payment of such greater weekly sum may, if the visiting committee think fit, be paid over to a building and repair fund, to be applied by the committee to the altering, repairing, or improving the asylum, and the committee shall annually submit to the local authority a detailed statement of the manner in which such fund has been expended.

Uniform  
charge where  
more than one  
asylum.

**284.** Where there is more than one asylum under the management and control of a visiting committee, the committee may, subject to any direction given by the local authority, provide that a uniform charge shall be made for the maintenance of lunatics in the several asylums, and that for that purpose any surplus arising on the accounts of one asylum shall be applied to meet the deficit arising on the accounts of another asylum.

(o) **Expenses.**—The expression "the expenses of maintenance and other expenses" includes the payment of parochial and other rates charged upon the asylum buildings, which may, therefore, be made out of the maintenance fund of the asylum. *Reg. v. Dolby (No. I)*, (1892), 2 Q. B. 301; 61 L. J. Q. B. 809.

*Medical Fees and other Expenses.*

53 Vict. c. 5.

**285.**—(1) Whenever a justice directs a lunatic or alleged lunatic, whether a pauper or not, to be examined by a medical practitioner under the provisions of this Act, the justice directing the examination, or any other justice having jurisdiction in the place where the examination took place, may make an order upon the guardians of the union named in the order for payment of such reasonable remuneration to the medical practitioner and of all such other reasonable expenses in and about the examination and the inquiry, whether an order for the reception of the alleged lunatic in an institution for lunatics or workhouse ought to be made, and also if an order is made for payment of such reasonable expenses of carrying the order into effect as the justice thinks proper.

Payment of  
medical fees  
and other  
expenses.

(2) The guardians upon whom an order is made under this section may recover any sums paid thereunder against the lunatic or alleged lunatic and his estate, and the person or authority legally liable for his maintenance as in the case of orders for maintenance under this Act.

*Liability for Expenses of Maintenance.*

**286.**—(1) Where a pauper lunatic is sent to an institution for lunatics, or where a lunatic in an institution for lunatics becomes a pauper, he shall be deemed to be chargeable to the union from which he was sent, until it has been established, as by this Act provided, that the lunatic is settled in some other union, or that it cannot be ascertained in what union the lunatic was settled, and the manager of the institution shall forthwith give to the authority liable for his maintenance notice that the lunatic has become destitute.

Chargeability  
of pauper  
lunatic.

(2) Every pauper lunatic who is chargeable to a union shall, while he resides in an institution for lunatics, be deemed for the purposes of his settlement to be resident in the union to which he is chargeable.

**287.**—(1) The justice by whom any pauper lunatic is sent to any institution for lunatics under this Act, or any two justices of the county or borough in which the institution for lunatics where any pauper lunatic is confined is situate, or from any part of which any pauper lunatic has been sent, or any two justices, being visitors of such institution, may make an order upon the guardians of the union to which the lunatic is chargeable, for payment to the treasurer, or manager of the institution, of the reasonable charges of the lodging, maintenance, medicine, clothing, and care (in this Act referred to as the expenses of maintenance) of such lunatic.

Orders for  
maintenance of  
lunatics.

(2) Any such order may be retrospective or prospective, or partly retrospective and partly prospective.

(3) An order under this section shall not be subject to appeal.

**288.** Any two justices for the county or borough in which an institution for lunatics where a pauper lunatic is or has been confined is situate, or to which such institution being an asylum wholly or in part belongs, or from any part of which any pauper lunatic is or has been sent for confinement, may, at any time, inquire into the settlement of the pauper lunatic.

Inquiry into  
settlement.

**289.** If satisfactory evidence can be obtained as to such settlement in any union, such justices shall, by order, adjudge the settlement, and order the guardians of the union to pay to the guardians of any other union the expenses incurred in or about the examination of the lunatic and the bringing him before a justice or justices, and his removal and conveyance to or from any institution for lunatics (in this Act referred to as the incidental expenses), and all moneys paid by such last-mentioned guardians to the treasurer or manager of the institution for the expenses of maintenance of the lunatic, and incurred within twelve months previous to the date of such order, and, if the lunatic is still in confinement, also to pay to the treasurer or manager of the institution the reasonable expenses of the future maintenance of such lunatic.

Adjudication  
as to settle-  
ment.

**290.**—(1) If a pauper lunatic is not settled in the union from which he was sent to an institution for lunatics, and his settlement cannot be ascertained, and the lunatic was sent from a quarter sessions borough which is free from contributing to the payment of the expenses of pauper lunatics chargeable to the county in which the borough is situate, or from a place not in such a borough, then the relieving officer of the union shall give to the clerk of the local authority within whose area the lunatic is found, ten days' notice to appear before two

If settlement  
cannot be  
ascertained a  
pauper lunatic  
may be made  
chargeable to a  
borough or  
county.

53 Vict. c. 5. justices having jurisdiction within such area, at a time and place to be appointed in the notice.

(2) Upon the appearance of the clerk of the local authority, in person or by deputy, or in case of non-appearance upon proof of due service of the notice, any two or more such justices may inquire into the circumstances of the case, and adjudge the pauper lunatic to be chargeable to the local authority, and may order the treasurer of the local authority to pay to the guardians of any union the incidental expenses of the lunatic, and all moneys paid by such guardians to the treasurer or manager of the institution for lunatics for the expenses of maintenance of the lunatic, and incurred within twelve months previous to the date of the order, and if the lunatic is still in confinement, to pay to such treasurer or manager the expenses of the future maintenance of the lunatic.

(3) Such justices may direct such further inquiries as they think fit to ascertain the union in which any pauper lunatic is settled, and delay their adjudication until after such further inquiries.

(4) Every local authority to whom a pauper lunatic is adjudged to be chargeable may at any time thereafter inquire as to the union in which the lunatic is settled, and may procure him to be adjudged to be settled in any union.

Provision for reimbursement of expenses of a lunatic afterwards adjudged to be settled in a union.

**291.** If after a pauper lunatic has been sent to an institution for lunatics, and has been adjudged chargeable to a local authority, the local authority procure the lunatic to be adjudged to be settled in the union, any two justices of the county or borough in which the institution where the lunatic is confined is situate, or from any part of which the lunatic was sent for confinement, or any two justices, being visitors of the institution, may make an order upon the guardians of the union for payment to the treasurer of the local authority of all expenses of maintenance of the lunatic paid by such treasurer to the treasurer or manager of the institution, and incurred within twelve months previous to the order, and, if the lunatic is still in confinement, also for payment to such treasurer or manager of the expenses of the future maintenance of the lunatic.

Orders as to lunatic paupers.

**292.**—(1) Justices by this Act authorised to make orders for payment of expenses upon guardians of unions, may make such orders, although the union is not within the jurisdiction of the justices.

(2) Orders as to the settlement or chargeability of pauper lunatics and for payment of expenses may be obtained by the guardians of any union.

Order for maintenance to extend to any place where the lunatic is.

**293.** An order for payment of the future expenses of maintenance of a lunatic shall extend to the payment of such expenses to the treasurer or manager of any institution for lunatics to which he is removed or in which he is for the time being confined.

The costs of pauper lunatics who are irremovable.  
9 & 10 Vict. c. 66.

**294.** All incidental expenses and expenses of maintenance of a lunatic removed to an institution for lunatics who would at the time of his removal have been exempt from removal to the parish of his settlement or the country of his birth by reason of some provision of the Poor Removal Act, 1846, as amended by subsequent Acts, shall be paid by the guardians of the union wherein the lunatic has acquired such exemption, and no order shall be made in respect of such lunatic under any provision contained in this or any other Act upon the guardians of the union in which the lunatic is settled while the above-mentioned expenses are to be paid and charged as herein provided.

Charges may be paid without orders of justices.

**295.** The guardians upon whom an order might be made under this Act for the payment of any money may pay the same without an order, and may charge the same to such account as they could have done if an order had been made.

The liability of relations of pauper not to be affected.

**296.** The liability of any relation or person to maintain any lunatic shall not be taken away or affected, where such lunatic is sent to or confined in any institution for lunatics, by any provision herein contained concerning the maintenance of such lunatic.

Expenses of removal, discharge, and burial.

**297.** The necessary expenses attending the removal, discharge, or burial of a pauper lunatic in any institution for lunatics, shall be borne by the union to which the lunatic is chargeable, or the local authority liable for his maintenance, and shall be paid by the guardians of the union or by the treasurer of the local authority.



**298.** The provisions of this Act for the payment of expenses in relation to pauper lunatics shall be applicable with respect to persons confined as pauper lunatics sent to any institution for lunatics under any other Act authorising their reception therein as pauper lunatics, and (save as herein otherwise provided concerning any lunatic who shall appear to have any real or personal property applicable to his maintenance) with respect to all other lunatics sent to any institution for lunatics under any order of a justice or justices made before the commencement of this Act, or under a summary reception order made by a justice under this Act, or under an order made by two or more commissioners before or after the commencement of this Act, as if such last-mentioned lunatics were at the time of being so sent actually chargeable to the union from which they are sent.

53 Vict. c. 5.

Provisions of Act as to expenses to extend to pauper lunatics sent to asylums under any other Act.

*Application of Lunatic's Property.*

**299.**—(1) If it appears to any justice that a lunatic, chargeable to any union, or local authority, has any real or personal property more than sufficient to maintain his family, if any, such justice may by order direct a relieving officer of the union, or the treasurer or some other officer of the local authority, to seize so much of any money, and to seize and sell so much of any other personal property of the lunatic, and to receive so much of the rents of any land of the lunatic as the justice may think sufficient to pay the expenses of maintenance and incidental expenses respectively incurred or to be incurred in relation to the lunatic.

Power to recover expenses against lunatic's estate.

(2) If any trustee, or the bank, or any other society or person having possession of any property of a lunatic, shall pay or deliver to a relieving officer of a union, or to the treasurer or other officer of the local authority to which respectively a lunatic is chargeable, any money or other property of the lunatic, to repay the charges in this section mentioned, whether pursuant to an order under this section, or without an order, the receipt of such relieving officer, treasurer, or officer shall be a good discharge.

**300.** An order may be made by a judge of county courts upon an application by the guardians of any union for payment of the expenses incurred by them under this Act in relation to a lunatic, and such order may be enforced against any property of the lunatic in the same way as a judgment of the county court.

Order by county court judge.

*Appeals.*

**301.**—(1) Any person aggrieved by the refusal of an order by any justice or justices as to any matter within the jurisdiction of a justice or justices under this part of this Act, may appeal to a court of quarter sessions upon giving to the justice or justices against whom the appeal is made fourteen clear days' notice of appeal.

Persons aggrieved by refusal of an order may appeal to the sessions.

(2) The determination of the court upon the appeal shall be final.

**302.** The guardians of any union, and the clerk of a local authority, obtaining any order under this Act adjudging the settlement of any lunatic to be in any union, shall, within a reasonable time after the date of the order, send or deliver, by post or otherwise, to the guardians of the union in which the lunatic is adjudged to be settled, a copy of the order, and also a statement in writing under the hand of the clerk to the guardians, or under the hand of the clerk of the local authority, as the case may be, stating the description and address of the guardians or clerk obtaining the order, and the place of confinement of the lunatic, and setting forth the grounds of the adjudication, including the particulars of any settlement relied upon in support thereof; and on the hearing of any appeal against the order the respondents shall not give evidence of any other grounds in support of the order than those set forth in such statement.

Party obtaining order of adjudication to send copy thereof and statement of grounds.

**303.** If the guardians of any union feel aggrieved by any order adjudging the settlement of a lunatic, they may appeal to the quarter sessions for the county or borough on behalf of which the order has been obtained, or in which the union obtaining the order is situate, or, in case such union extends into several counties, then to the next quarter sessions for the county or borough in which the institution for lunatics where the lunatic is or has been confined is situate, and such sessions, upon hearing the appeal, shall have full power finally to determine the matter.

Appeal against order of adjudication.

53 Vict. c. 5.

Copy of  
depositions to  
be furnished on  
application.

**304.**—(1) The clerk to the justices making an order adjudging the settlement of a lunatic, or the clerk of the peace in the case hereinafter provided for, shall keep the depositions upon which the order was made, and shall, within seven days after application by any party authorised to appeal against the order, furnish a copy of the depositions to the applicant.

(2) The person applying for a copy of the depositions shall pay for the same at the rate of twopence for every folio of seventy-two words.

(3) No omission or delay in furnishing a copy of the depositions shall be a ground of appeal against the order.

(4) On the trial of any appeal no such order shall be quashed or set aside either wholly or in part on the ground that the depositions do not furnish sufficient evidence to support, or that any matter therein contained or omitted raises an objection to the order or grounds on which the same was made.

(5) If the justices who make any such order have no clerk, they shall send or deliver the depositions to the clerk of the peace of the county or borough to the quarter sessions whereof the appeal lies, and the party obtaining such order shall, in the statement of the grounds of adjudication, state that the justices have no clerk.

No appeal if  
notice not  
given within a  
certain time.

**305.** No appeal shall be allowed against any such order if notice in writing of the appeal is not sent or delivered by post or otherwise to the party on whose application the order was obtained within twenty-one days after the sending or delivery, as hereinbefore directed, of a copy of the order, and such statement as hereinbefore mentioned, unless within the twenty-one days a copy of the depositions has been applied for by the party intending to appeal, in which case a further period of fourteen days after the sending of such copy shall be allowed for giving notice of appeal.

Grounds of  
appeal to be  
stated.

**306.** In every case where notice of appeal against such order is given the appellant shall, with the notice, or fourteen days at least before the first day of the sessions at which the appeal is to be tried, send or deliver by post or otherwise to the respondent a statement in writing under his hand, or where the appellants are the guardians of a union, under the hand of the clerk to the guardians, of the grounds of such appeal; and the appellant shall not, on the hearing of any appeal, give evidence of any other grounds of appeal than those set forth in such statement.

As to the  
sufficiency of  
statement of  
grounds of  
adjudication or  
appeal.

**307.**—(1) Upon the hearing of any appeal against any such order no objection whatever on account of any defect in the form of setting forth any ground of adjudication or appeal in any such statement shall be allowed, and no objection to the reception of legal evidence offered in support of any such ground alleged to be set forth in any such statement shall prevail, unless the court is of opinion that such alleged ground is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to inquire into the subject of such statement, and to prepare for trial.

(2) In all cases where the court is of opinion that any such objection to such statement or to the reception of evidence ought to prevail, the court may, if it thinks fit, cause any such statement to be forthwith amended by some officer of the court, or otherwise, on such terms as to payment of costs to the other party, or postponing the trial to another day in the same sessions, or to the next subsequent sessions, or both payment of costs and postponement, as to the court appears just.

Power for  
court to amend  
order on  
account of  
omission or  
mistake.

**308.**—(1) If, upon the trial of any appeal against any such order, or upon the return to a writ of certiorari, any objection is made on account of any omission or mistake in drawing up the order, and it is shown to the satisfaction of the court that sufficient grounds were proved before the justices making the order to authorise the drawing up thereof free from the omission or mistake, the court may, upon such terms as to payment of costs as it thinks fit, amend the order and give judgment as if no omission or mistake had existed.

(2) No objection on account of any omission or mistake in any such order brought up upon a return to a writ of certiorari shall be allowed, unless the omission or mistake has been specified in the rule for issuing such writ of certiorari.

Power of court  
as to costs.

**309.**—(1) Upon every such appeal the court before whom the same is brought may, if it thinks fit, order the party against whom the same is decided to pay to the other such costs and charges as may to the court appear just, and shall certify the amount thereof.

(2) If either of the parties to the appeal have included in the statement of grounds of adjudication or of appeal sent to the opposite party any grounds in support of the order or of appeal which, in the opinion of the court determining the appeal, are frivolous and vexatious, such party shall be liable, at the discretion of the court, to pay the whole or any part of the costs incurred by the other party in disputing any such grounds. 53 Vict. c. 5.

**310.** The decision of the court upon the hearing of any appeal against any such order, as well upon the sufficiency and effect of the statement of the grounds in support of the order and appeal, and of the copy or duplicate of the order sent to the appellant, as upon the amending or refusing to amend the order as aforesaid, or the statement of grounds, shall be final, and shall not be liable to be reviewed in any court by means of a writ of certiorari or mandamus or otherwise. Decision upon appeal to be final.

**311.**—(1) In any case in which an order has been made as aforesaid, and a copy thereof sent as herein required, the party who has obtained the order, whether any notice of appeal against the order has been given or not, and whether any appeal has been entered or not, may abandon the order, by notice in writing under the hand of such party, or, where the order has been obtained by the guardians of a union, under the hand of the clerk to the guardians, to be sent by post or delivered to the appellant or the party entitled to appeal, and thereupon the order and all proceedings consequent thereon shall be void, and shall not be given in evidence, in case any other order for the same purposes is obtained. Abandonment of orders.

(2) In all cases of such abandonment the party abandoning shall pay to the appellant or the party entitled to appeal the costs which he has incurred by reason of the order and of all subsequent proceedings thereon.

(3) The proper officer of the court before whom the appeal (if it had not been abandoned) might have been brought shall, upon application, tax and ascertain the costs, at any time, whether the court is sitting or not, upon production to him of the notice of abandonment, and upon proof to him that such reasonable notice of taxation, together with a copy of the bill of costs, has been given to the guardians, or clerk abandoning the order, as the distance between the parties shall in his judgment require; and thereupon the sum allowed for costs, including the usual costs of taxation, which such officer is hereby empowered to charge and receive, shall be endorsed upon the said notice of abandonment, and the said notice so endorsed shall be filed among the records of the said court.

**312.** In every case of an inquiry, or appeal as to the union in which a pauper lunatic is settled, the guardians, clerks of the guardians, and relieving officers of every union interested in the inquiry or appeal, and every person duly authorised by them respectively, and the clerk of the local authority interested in the inquiry or appeal, and every person duly authorised by him, shall at all reasonable times be allowed free access, in the presence of the medical attendant, to the lunatic to examine him as to the premises. Guardians and officers interested to have access to the lunatic.

**313.** The provisions of section thirty-one of the Summary Jurisdiction Act, 1879, shall not apply to appeals under this part of this Act (*p*). Sec. 31 of 42 & 43 Vict. c. 49 not to apply.

#### *Recovery of Expenses.*

**314.**—(1) If the treasurer of any local authority, upon whom any order of justices for the payment of money under the provisions of this Act is made, refuses or neglects for twenty days after due notice of such order to pay the money, the money, together with the expenses of recovering the same, shall be recovered by distress and sale of the goods of the treasurer so refusing or neglecting, by warrant under the hands of any two justices authorised to make the order for payment of the money, or by an action at law, or by any other proceeding in a court of competent jurisdiction, against the treasurer. Money ordered to be paid may be recovered by distress or action.

(2) If the guardians upon whom any such order is made refuse or neglect for such time as aforesaid to pay the money, the same, together with the expenses of recovering the same, may be recovered by an action at law or by any other proceeding in any such court.

(3) In case of any such action or proceeding no objection shall be taken to any

(*p*) Summary Jurisdiction Act, 1879, sec. 31, provides regulations as to procedure on appeal to quarter sessions under the Summary Jurisdiction Acts.



- 53 Vict. c. 5. default or want of form in any order for reception or maintenance, or in any certificate or adjudication under this Act, if such order or adjudication has not been appealed against, or if appealed against has been affirmed.

## PART XI.

## PENALTIES, MISDEMEANOURS, AND PROCEEDINGS.

Lunatics not to be detained except in accordance with Act.

**315.** (1) Every person who, except under the provisions of this Act, receives or detains a lunatic, or alleged lunatic, in an institution for lunatics, or for payment takes charge of, receives to board or lodge, or detains a lunatic or alleged lunatic in an unlicensed house, shall be guilty of a misdemeanour, and in the latter case shall also be liable to a penalty not exceeding fifty pounds.

(2) Except under the provisions of this Act, it shall not be lawful for any person to receive or detain two or more lunatics in any house unless the house is an institution for lunatics or workhouse.

(3) Any person who receives or detains two or more lunatics in any house, except as aforesaid, shall be guilty of a misdemeanour.

**316.** [*Neglect to send notices to commissioners on admission to hospital or licensed house a misdemeanour.*]

Misstatements.

**317.**—(1) Any person who makes a wilful misstatement of any material fact in any petition, statement of particulars, or reception order under this Act, shall be guilty of a misdemeanour.

(2) Any person who makes a wilful misstatement of any material fact in any medical or other certificate, or in any statement or report of bodily or mental condition under this Act, shall be guilty of a misdemeanour.

(3) A prosecution for a misdemeanour under this section shall not take place except by order of the commissioners, or by the direction of the Attorney-General or the Director of Public Prosecutions.

False entries.

**318.** Any person who in any book, statement, or return, knowingly makes any false entry as to any matter as to which he is by this Act or any rules made under this Act required to make any entry, shall be guilty of a misdemeanour.

Notice to coroner of death.

**319.** If the manager of an institution for lunatics, or the person having charge of a single patient, omits to send to the coroner notice of the death of a lunatic within the prescribed time, he shall be guilty of a misdemeanour.

Penalty for non-compliance with the Act and rules.

**320.** Any person who makes default in sending to the commissioners or any other person any return, report, extract, copy, statement, notice, plan, or document, or any information within his knowledge or obtainable by him, when required so to do under this Act or any other Act relating to lunacy, or any rules made under this Act or in complying with the said Acts or rules, shall for each day or part of a day during which the default continues be liable to a penalty not exceeding ten pounds, unless a penalty is expressly imposed by this or any other Act for such default: Provided that all or any part of the cumulative penalties may be remitted by the court in any case in which it is made to appear to the satisfaction of the court that the original default or its continuance during any period of time arose from mere accident or oversight, and not from wilful or culpable neglect on the part of the person sued.

Obstruction.

**321.**—(1) Any person who obstructs any commissioner or chancery or other visitor in the exercise of the powers conferred by this or any other Act, shall for each offence be liable to a penalty not exceeding fifty pounds, and shall also be guilty of a misdemeanour.

(2) Any person who wilfully obstructs any other person authorised under this Act by an order in writing under the hand of the Lord Chancellor or a Secretary of State to visit and examine any lunatic or supposed lunatic, or to inspect or inquire into the state of any institution for lunatics, gaol, or place wherein any lunatic or person represented to be lunatic is confined or alleged to be confined, in the execution of such order, and any person who wilfully obstructs any person authorised under this Act by any order of the commissioners to make any visit and examination or inquiry in the execution of such order, shall (without prejudice to any proceedings, and in addition to any punishment to which such person obstructing the execution of such order would otherwise be subject), be liable for every such offence to a penalty not exceeding twenty pounds.

**322.** If any manager, officer, nurse, attendant, servant or other person employed in an institution for lunatics or any person having charge of a lunatic, whether by reason of any contract, or any tie of relationship, or marriage, or otherwise, illtreats or wilfully neglects a patient, he shall be guilty of a misdemeanour, and, on conviction on indictment, shall be liable to fine or imprisonment, or to both fine and imprisonment at the discretion of the court, or be liable on summary conviction for every offence to a penalty not exceeding twenty pounds nor less than two pounds.

53 Vict. c. 5.  
Ill-treatment.

**323.** If any manager, officer, or servant of an institution for lunatics wilfully permits, or assists, or connives at the escape or attempted escape of a patient, or secretes a patient, he shall for every offence be liable to a penalty not exceeding twenty pounds nor less than two pounds.

Penalties for  
permitting  
escape and for  
rescue.

**324.** If any manager, officer, nurse, attendant, or other person employed in any institution for lunatics (including an asylum for criminal lunatics), or workhouse, or any person having the care or charge of any single patient, or any attendant of any single patient, carnally knows or attempts to have carnal knowledge of any female under care or treatment as a lunatic in the institution, or workhouse, or as a single patient, he shall be guilty of a misdemeanour, and, on conviction on indictment, shall be liable to be imprisoned with or without hard labour for any term not exceeding two years; and no consent or alleged consent of such female thereto shall be any defence to an indictment or prosecution for such offence.

Abuse of  
female lunatic.

**325.**—(1) Except as by this Act otherwise provided, proceedings against any person for offences against this Act may be taken—

By whom  
proceedings to  
be taken.

- (a) By the secretary of the commissioners upon their order for any offence;
- (b) By the clerk of the visitors of any licensed house for an offence committed within their jurisdiction.
- (c) By the clerk of the visiting committee of an asylum for any offence by any person employed therein;

and such proceedings shall not abate by the death or removal of the prosecuting secretary or clerk, but the same may be continued by his successor, and in any such proceedings the prosecuting secretary or clerk shall be competent to be a witness.

(2) Except as by this Act otherwise provided, it shall not be lawful to take such proceedings except by order of the commissioners, or of visitors having jurisdiction in the place where the offence was committed, or with the consent of the Attorney-General or Solicitor-General.

**326.** All penalties enforceable under this Act shall be recovered summarily according to the provisions of the Summary Jurisdiction Acts, and shall be paid—

Recovery and  
application of  
penalties.

- (a) When recovered by the secretary of the commissioners, to such secretary;
- (b) When recovered by the clerk of the visitors of a licensed house, to the clerk of the peace for the county or borough, to be applied in the same way as money received for licences granted by the justices of the county or borough.
- (c) When recovered by a clerk of the visiting committee of an asylum, to the treasurer of the asylum for the purposes thereof;
- (d) In all other cases to the treasurer of the county or borough for which the convicting justices acted.

**327.** Any person aggrieved by an order of justices under this Act, other than orders adjudicating as to the settlement of a lunatic pauper and providing for his maintenance, may appeal to a court of quarter sessions, subject to the conditions and regulations of the Summary Jurisdiction Acts.

Appeals.

**328.** A Secretary of State on the report of the commissioners or visitors of any institution for lunatics may direct the Attorney-General to prosecute on the part of the Crown any person alleged to have committed a misdemeanour under this Act.

Secretary of  
State may  
direct  
prosecution.

**329.**—(1) Where any person is proceeded against under this Act on a charge of omitting to transmit or send any copy, list, notice, statement, report or other document required to be transmitted or sent by such person, the burden of proof that the same was transmitted or sent within the time required shall lie upon such person; but if he proves by the testimony of one witness upon oath that

Evidence upon  
prosecution.

53 Vict. c. 5. the copy, list, notice, statement, report or document in respect of which the proceeding is taken was properly addressed and put into the post in due time, or (in case of documents required to be sent to the commissioners or a clerk of the peace or a clerk to guardians) left at the office of the commissioners or of the clerk of the peace or clerk to guardians, such proof shall be a bar to all further proceedings in respect of such charge.

(2) In proceedings under this Act, where a question arises whether a house is or is not a licensed house or registered as a hospital, it shall be presumed not to be so licensed or registered unless the licence or certificate of registration is produced, or sufficient evidence is given that a licence or certificate is in force.

Protection to  
persons  
putting the  
Act in force.

**330.**—(1) A person who before the passing of this Act has signed or carried out or done any act with a view to sign or carry out an order purporting to be a reception order, or a medical certificate that a person is of unsound mind, and a person who after the passing of this Act presents a petition for any such order, or signs or carries out or does any act with a view to sign or carry out an order purporting to be a reception order, or any report or certificate purporting to be a report or certificate under this Act, or does anything in pursuance of this Act, shall not be liable to any civil or criminal proceedings whether on the ground of want of jurisdiction or on any other ground if such person has acted in good faith and with reasonable care.

(2) If any proceedings are taken against any person for signing or carrying out or doing any act with a view to sign or carry out any such order, report, or certificate, or presenting any such petition as in the preceding sub-section mentioned, or doing anything in pursuance of this Act, such proceedings may, upon summary application to the High Court or a judge thereof, be stayed upon such terms as to costs and otherwise as the court or judge may think fit, if the court or judge is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care.

**331.** [*Rep. by Public Authorities Protection Act, 1893, post.*]

Commissioners  
and visitors  
may summon  
witnesses.

**332.**—(1) The commissioners, or any two of them, and also the visitors of any licensed house, or any two of them, may, as they see occasion, require, by summons, under the common seal of the commission, if by the commissioners, and if by two only of the commissioners or by two visitors, then under the hands and seals of such two commissioners or two visitors, as the case may be, any person to appear before them to testify on oath touching any matters respecting which such commissioners and visitors respectively are by this Act authorised to inquire (which oath such commissioners or visitors are hereby empowered to administer).

Form 22.

(2) Every person who does not appear pursuant to the summons, or does not assign some reasonable excuse for not appearing, or who appears and refuses to be sworn or examined, shall, on being convicted thereof before a court of summary jurisdiction for every such neglect or refusal be liable to a penalty not exceeding fifty pounds.

(3) Any two or more commissioners or visitors may, if they think fit, examine on oath any person appearing before them as a witness, without having been summoned.

(4) Any commissioner or visitors who summon a person to appear and give evidence, may direct the secretary of the commissioners or the clerk of such visitors, as the case may be, to pay to such person all reasonable expenses of his appearance and attendance, the same to be considered as expenses incurred in the execution of this Act, and to be taken into account and paid accordingly.

## PART XII.

### MISCELLANEOUS PROVISIONS, DEFINITIONS, REPEAL.

Indemnity to  
bank and  
others.

**333.** This Act, and every order purporting to be made under this Act, shall be a full indemnity and discharge to the bank and every other company and society and their respective officers and servants, and all other persons respectively, for all acts and things done or permitted to be done pursuant thereto, or pursuant to the rules under this Act, so far as relates to any property in which a lunatic is interested either in his own right, or as trustee or mortgagee, and it shall not be necessary to inquire into the propriety of any order purporting to be made under this Act relating to any such property or the jurisdiction to make the same.



**334.** Where in any Act of Parliament, order or rule of court, or instrument, reference is made to a commission of lunacy, or the inquisition thereon, the general commission and the inquisition, or certificate operating as an inquisition, and the issue and verdict thereon respectively in this Act mentioned, shall be deemed to be included in the reference.

**335.** When any sum in respect of pay, pension, superannuation, or other allowance, or annuity under the control or management of any public department, is payable to any person, in respect either of service as a civil servant or of military or naval service or of provision for a widow or child of a person employed in civil, military, or naval service, and the person to whom the sum is payable is certified by a justice or minister of religion, and by a medical practitioner, to be unable by reason of mental disability to manage his or her affairs, the public department may pay so much of the said sum as the department may think fit to the institution or person having the care of the disabled person, and may pay the surplus, if any, or such part thereof, as the department may think fit, for or towards the maintenance and benefit of the wife or husband and relatives of the disabled person, and the department shall be discharged from all liability in respect of any sums so paid.

**336.** In the case of orders made before the commencement of this Act for the reception of private patients, the person who signed the reception order shall have all the powers and be subject to the obligations by this Act conferred or imposed upon the petitioner for a reception order, and the provisions of this Act relating to persons upon whose petition a reception order was made shall apply in the case of a person who before the commencement of this Act has signed an order for the reception of a private patient, as if the order had been made after the commencement of this Act upon a petition presented by him.

**337.** [*Power to Lord Chancellor to amalgamate the lunacy departments.*]

**338.**—(1) It shall be lawful for the commissioners, with the approval of the Lord Chancellor, by rules, to prescribe the books to be kept in institutions for lunatics and houses for single patients, and the entries to be made therein, and the returns, reports, extracts, copies, statements, notices, plans, documents, and information to be sent to the commissioners or any authority or person, and the persons by whom, the times within which, and the manner in which, such entries, returns, reports, extracts, copies, statements, notices, plans, documents, and information are to be made and sent; and also by rules to prescribe forms for the purposes aforesaid in addition to or in substitution for any forms now in use (*g*).

(2) Subject to the preceding sub-section, the Lord Chancellor may make rules (*g*) for carrying this or any other Act relating to lunacy into effect, and also for regulating costs in relation thereto.

(3) Where by any Act already passed or hereafter to be passed any application in lunacy is directed or authorised to be made by petition, or in any other specified manner, the Lord Chancellor may by rule direct in what manner the application is to be made.

(4) The Lord Chancellor and a Secretary of State respectively may by rules provide for preventing interference or delay in the exercise of the ordinary jurisdiction of the judges of county courts and magistrates respectively by the transfer of petitions and notices or otherwise as such rules may direct.

(5) Subject to any rules made under this section, the existing rules shall, so far as applicable, continue in force.

(6) All rules made under the provisions of this section shall be laid before Parliament within three weeks after they are made if Parliament is then sitting, and, if Parliament is not then sitting, within three weeks after the beginning of the then next session of Parliament, and shall be judicially noticed, and shall have effect as if enacted by this Act.

(7) A rule under the provisions of this section shall not come into operation until the expiration of one month after the same has been made and issued.

(*g*) **Rules.**—The rules made by the commissioners under sub-section (1) now in force are dated the 26th June, 1895. The rules in lunacy made by the Lord Chancellor under sub-section (2) now in force are dated 6th February, 1892, and do not affect the powers or duties of the "local authorities."

53 Vict. c. 5.

Meaning of word commission in other Acts extended.

Pension of lunatic payable by public department.

Forms 16, 17.

Reception orders before Act.

Power to make rules.

53 Vict. c. 5.  
Forms.

Savings as to  
criminal  
lunatics, &c.  
49 & 50 Vict.  
c. 25.  
Definitions.

3 & 4 Will. 4,  
c. 74.

51 & 52 Vict.  
c. 41.  
47 & 48 Vict.  
c. 64.

4 & 5 Will. 4.  
c. 76.

**339.** Subject to rules made under this Act, the forms in the second schedule may be used, wherever applicable, with such modifications as circumstances may require, and if used, shall be deemed to be sufficient.

**340.**—(1) Save as in this Act otherwise expressly provided this Act shall not extend to criminal lunatics.

(2) This Act shall not affect the provisions of the Idiots Act, 1886 (*r*).

**341.** In this Act, if not inconsistent with the context—

“Asylum” means an asylum for lunatics provided by a county or borough, or by a union of counties or boroughs:

“The bank” means the governor and company of the Bank of England:

“Clerk,” in relation to a local authority, means, where the local authority is a county council, the clerk of the council, and where the local authority is a borough council, the town clerk of the borough:

“Commissioners” means the commissioners in lunacy:

“Contingent right,” as applied to lands, includes a contingent and executory interest, a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent:

“Convey” and “conveyance” include the performance of all formalities required to the validity of conveyances by married women and tenants in tail under the “Act for the abolition of fines and recoveries, and for the substitution of more simple modes of assurance,” and also surrenders and other acts which a tenant of copyhold lands can perform preparatory to or in aid of a complete assurance of such copyhold lands:

“County,” for the purpose of the powers exercisable by justices of a county, does not include a county of a city or county of a town (except the City of London), but includes any county, riding, division, part or liberty of a county having a separate court of quarter sessions:

“County borough” has the same meaning as in the Local Government Act, 1888:

“Criminal lunatic” has the same meaning as in the Criminal Lunatics Act, 1884:

“District asylum” means an asylum provided by two or more counties in union, or by any county or counties in union with any borough or boroughs:

“Dividends” includes interest and other annual produce:

“Guardians” means guardians appointed under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or other body of persons performing under any local Act the like functions as guardians under the Poor Law Amendment Act, 1834:

“Hospital” means any hospital or part of a hospital or other house or institution (not being an asylum) wherein lunatics are received and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients:

“Inquisition” includes an order, certificate, or verdict operating as an inquisition:

“Institution for lunatics” means an asylum, hospital, or licensed house:

“Justice” means a justice of the peace:

“Land” includes an undivided share of land:

“Lease” includes underlease.

“Lunatic” means an idiot or person of unsound mind:

“Magistrate” means a stipendiary magistrate and any magistrate appointed to act at any of the police courts of the Metropolis:

“Manager” in relation to an institution for lunatics means the superintendent of an asylum, the resident medical officer or superintendent of a hospital, and the resident licensee of a licensed house:

“Masters” means the masters in lunacy:

“Medical officer” means, in the case of an asylum, the medical superintendent, or if the superintendent is not a medical practitioner the resident medical officer of the asylum, in the case of a hospital the superintendent,

(*r*) **Idiots Act, 1886.**—This Act provides for the admission of idiots and imbeciles into hospitals, licensed houses, and institutions not being lunatic asylums.

- and in the case of a licensed house the resident medical practitioner, or if none the medical practitioner who visits the house as the medical attendant thereof: 53 Vict. c. 5.
- “Medical practitioner” means a medical practitioner duly registered under the Medical Act, 1858, and the Acts amending the same, and the Medical Act, 1886: 21 & 22 Vict. c. 90.
- “Mortgage” includes every estate, interest, or property in real or personal estate, which is a security for money or money’s worth: 49 & 50 Vict. s. 48.
- “Next of kin” includes heir at law, and the persons entitled under the statutes for the distribution of the estates of intestates:
- “Pauper” means a person wholly or partly chargeable to a union, county, or borough:
- “Paymaster-general” includes the assistant paymaster-general for Supreme Court business:
- “Prescribed” means prescribed by this Act or by any rules under this Act:
- “Private patient” means a patient who is not a pauper:
- “Property” includes real and personal property, whether in possession, reversion, remainder, contingency, or expectancy, and any estate or interest, and any undivided share therein:
- “Public department” means the Treasury, the Admiralty, and a Secretary of State, and any other public department of the Government:
- “Quarter sessions” includes general sessions:
- “Quarter sessions borough” means a borough having a separate court of quarter sessions:
- “Reception order” means an order or authority made or given before or after the commencement of this Act for the reception of a lunatic, whether a pauper or not, in an institution for lunatics or as a single patient, and includes an urgency order:
- “Relative” means a lineal ancestor or lineal descendant, or a lineal descendant of an ancestor not more remote than great-grandfather or great-grandmother:
- “Stock” includes any fund, annuity, or security transferable in books kept by any company or society, or by instrument of transfer alone, or by instrument of transfer, accompanied by other formalities, and any share or interest therein, and also shares in ships registered under the Merchant Shipping Act, 1854: 17 & 18 Vict. c. 104.
- “Transfer” includes assignment, payment, and other disposition, and the execution, and performance, of every assurance and act to complete a transfer:
- “Trust” and “trustee” include implied and constructive trusts, and cases where the trustee has some beneficial interest, and also the duties incident to the office of personal representative of a deceased person, but not the duties incident to an estate conveyed by way of mortgage:
- “Union” means any parish or union of parishes for which there is a separate board of guardians:
- “Visiting committee” means a committee of visitors of any asylum appointed under this Act:
- “Workhouse” includes an asylum provided for reception and relief of the insane under the Metropolitan Poor Act, 1867, and the managers of every such asylum shall exercise the powers and perform the duties by this Act conferred and imposed upon the guardians of the union to which a workhouse belongs. 30 Vict. c. 6.

**342.** The Acts mentioned in the fifth schedule are hereby repealed to the extent set forth in the third column of the same schedule. Repeal.

Provided that this repeal shall not affect any jurisdiction or practice established, confirmed, or transferred, or salary or compensation or superannuation secured, by or under any enactment repealed by this Act.

## SCHEDULES.

### THE FIRST SCHEDULE.

*Declaration to be made by a Master.*

Section 111.

\* \* \* \* \*



53 Vict. c. 5.

Section 151.

Section 157.

Section 179.

*Declaration to be made by a Commissioner.*  
\*            \*            \*            \*            \*            \*            \*  
*Declaration to be made by the Secretary and Clerks of the Commissioners.*  
\*            \*            \*            \*            \*            \*            \*  
*Declaration to be made by Assistants to the Clerk of the Visitors.*  
\*            \*            \*            \*            \*            \*            \*

Section 339.

THE SECOND SCHEDULE.

FORM 1.

Sections 4, 5.

[Petition for an Order for Reception of a Private Patient.]

FORM 2.

Sections 4, 5,

11.

Section 6.

[Statement of Particulars in Petition.]

[1] Address and description.

[2] Or an idiot or person of unsound mind.

[3] Or hospital or house or as a single patient.

[4] To be addressed to the medical superintendent of the asylum or hospital, or to the resident licensee of the house in which the patient is to be placed.

Section 11.

[1] Or hospital or asylum or as a single patient.

[2] Or an idiot or a person of unsound mind.

[3] Some day within two days before the date of the order.

[4] Husband, wife, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, partner, or assistant.

[5] See Form 2. Describing the asylum, hospital, or house by situation and name.

FORM 3.

*Order for Reception of a Private Patient to be made by a Justice appointed under the Lunacy Act, 1890, Judge of County Courts, or Stipendiary Magistrate.*

I, the undersigned *E.F.*, being a Justice for specially appointed under the Lunacy Act, 1890 [or the Judge of the County Court of or the Stipendiary Magistrate for ] upon the petition of *C.D.*, of [1] in the matter of *A.B.*, a lunatic [2], accompanied by the medical certificates of *G.H.* and *I.J.* hereto annexed, and upon the undertaking of the said *C.D.* to visit the said *A.B.* personally or by some one specially appointed by the *C.D.* once at least in every six months while under care and treatment under this order, hereby authorise you to receive the said *A.B.* as a patient into your asylum [3]. And I declare that I have [or have not] personally seen the said *A.B.* before making this order.

Dated

(Signed) *E.F.*

A Justice for appointed under the above-mentioned Act [or the Judge of the County Court of or a Stipendiary Magistrate.]

To [4]

FORM 4.

*Form of Urgency Order for the Reception of a Private Patient.*

I, the undersigned, being a person twenty-one years of age, hereby authorise you to receive as a patient into your house [1] *A.B.*, as a lunatic [2], whom I last saw at on the [3] day of 18 . I am not related to or connected with the person signing the certificate which accompanies this order in any of the ways mentioned in the margin [4]. Subjoined [or annexed] hereto [5] is a statement of particulars relating to the said *A.B.*

(Signed)

Name and Christian name at length.  
Rank, profession, or occupation (if any).  
Full postal address.  
How related to or connected with the patient.  
[If not the husband or wife or a relative of the patient, the person signing to state as briefly as possible: 1. Why the order is not signed by the husband or wife or a relative of the patient. His or her connexion with the patient, and the circumstances under which he or she signs.]

Dated this

day of

18 .

To

superintendent of

the

asylum

[

hospital or resident licensee of the

house].

## FORM 5.

*Certificate as to Personal Interview after Reception.*

I certify that it would be prejudicial to *A.B.* to be taken before or visited by a justice, a judge of county courts, or magistrate.

(Signed) *C.D.*,

Medical Superintendent of the  
Asylum or Hospital or Resident Medical  
Practitioner or Attendant of the  
said *A.B.*, or Medical Attendant of the

## FORM 6.

*Notice of Right to Personal Interview.*

Take notice that you have the right, if you desire it, to be taken before or visited by a justice, judge of county courts, or magistrate. If you desire to exercise such right, you must give me notice thereof by signing the enclosed form on or before the day of

Dated

(Signed) *C.D.*,

Superintendent of the  
Asylum or Hospital or Resident Licensee  
of [or as the case  
may be].

## FORM 7.

*Notice of Desire to have a Personal Interview.*

Dated

[Address]

I desire to be taken before or visited by a justice, judge, or magistrate having jurisdiction in the district within which I am detained.

(Signed)

## FORM 8.

*Certificate of Medical Practitioner.*

In the matter of *A.B.* of [ ] in the county [ ] of [ ],  
an alleged lunatic.

I, the undersigned *C.D.*, do hereby certify as follows:

1. I am a person registered under the Medical Act, 1858, and I am in the actual practice of the medical profession.

2. On the day of 18 , at [ ] in the county [ ] of [ ]  
[separately from any other practitioner] [ ], I personally examined the said *A.B.* and came to the conclusion that he is a [lunatic, an idiot, or a person of unsound mind] and a proper person to be taken charge of and detained under care and treatment.

3. I formed this conclusion on the following grounds, viz. :—

(a) Facts indicating insanity observed by myself at the time of examination [ ], viz. :—

(b) Facts communicated by others, viz. :—[ ]

[If an urgency certificate is required it must be added here. See Form 9.]

4. The said *A.B.* appeared to me to be [or not to be] in a fit condition of bodily health to be removed to an asylum, hospital, or licensed house [ ].

5. I give this certificate having first read the section of the Act of Parliament printed below.

Dated

(Signed) *C.D.*, of [ ]

53 Vict. c. 5.

FORM 9.

Sections 11, 28.

*Statement accompanying Urgency Order.*

I certify that it is expedient for the welfare of the said *A.B.* [or for the public safety, *as the case may be*] that the said *A.B.* should be forthwith placed under care and treatment.

My reasons for this conclusion are as follows: [*state them*]

Section 24.

FORM 10.

[*Certificate of medical officer as to pauper lunatic in a workhouse.*]

Section 24.

FORM 11.

[*Order for detention of lunatic in workhouse.*]

Section 16.

FORM 12.

*Order for Reception of a Pauper Lunatic or Lunatic Wandering at Large.*

I, *C.D.*, having called to my assistance *E.F.* of \_\_\_\_\_, a duly qualified medical practitioner, and being satisfied that *A.B.* [*describing him*] is a pauper in receipt of relief [or in such circumstances as to require relief for his proper care and maintenance], and that the said *A.B.* is a lunatic [or an idiot, or a person of unsound mind] and a proper person to be taken charge of and detained under care and treatment, or that *A.B.* [*describing him*] is a lunatic, and was wandering at large, and is a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said *A.B.* as a patient into your asylum [or hospital, or house]. Subjoined is a statement of particulars respecting the said *A.B.*

(Signed) *C.D.*,

Dated the \_\_\_\_\_ day of \_\_\_\_\_ A justice of the peace for  
one thousand eight hundred and  
To the superintendent of the asylum for the county [or borough] of \_\_\_\_\_  
[or the lunatic hospital of \_\_\_\_\_]; or *E.F.* proprietor of the  
licensed house of \_\_\_\_\_; describing the asylum, hospital, or house].

*Note.*—Where the order directs the lunatic to be received into any asylum, other than an asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, or into a registered hospital or licensed house, it shall state, that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum; or (as the case may be) the special circumstances, by reason whereof the lunatic cannot conveniently be taken to an asylum for such first-mentioned county or borough.

*Statement of Particulars.*

[<sup>1</sup>] If any particulars are not known, the fact is to be so stated.  
[Where the patient is in the order described as an idiot omit the particulars marked†.]

STATEMENT of particulars referred to in the above or annexed order.

The following is a statement of particulars relating to the said *A.B.* [<sup>1</sup>]:—

Name of patient, with Christian name at length.

Sex and age.

†Married, single, or widowed.

†Rank, profession, or previous occupation (if any).

†Religious persuasion.

Residence at or immediately previous to the date hereof.

†Whether first attack.

Age on first attack.

When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.

†Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others, and in what way.

Whether any near relative has been afflicted with insanity.

Union to which lunatic is chargeable.



Names, Christian names, and full postal addresses of one or more relatives of the patient. 53 Vict. c. 5.

Name of the person to whom notice of death to be sent, and full postal address if not already given.

(Signed) *G.H.*

*To be signed by the Relieving Officer or Overseer.*

## FORM 13.

Section 38.

*Certificate that Patient Continues of Unsound Mind.*

[Rep. Lunacy Act, 1891, sec. 29, *post.*]

## FORM 14.

Section 229.

[*Consent to the admission of a boarder.*]

## FORM 15.

Section 13.

*Order for Reception of a Lunatic not under proper care and control, or cruelly treated or neglected, to be made by a Justice appointed under the Lunacy Act, 1890.*

I, the undersigned *C.D.*, being a Justice for \_\_\_\_\_ specially appointed under the Lunacy Act, 1890, having caused *A.B.* to be examined by two duly qualified medical practitioners, and being satisfied that the said *A.B.* is a lunatic not under proper care and control [*or is cruelly treated or neglected by the person having the care or charge of him*], and that he is a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said *A.B.* as a patient into your asylum [*or hospital or house*]. Subjoined is a statement of particulars respecting the said *A.B.*

(Signed)

A justice of the peace for \_\_\_\_\_  
appointed under the above-mentioned Act.

Dated \_\_\_\_\_

To the Superintendent of the Asylum for \_\_\_\_\_, or of the  
lunatic hospital of \_\_\_\_\_, or the resident licensee of the  
licensed house at \_\_\_\_\_

*Note.*—Where the order directs the lunatic to be received into any asylum, other than an asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, or into a registered hospital or licensed house, it shall state, that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum; or (as the case may be) the special circumstances, by reason whereof the lunatic cannot conveniently be taken to an asylum for such first-mentioned county or borough.

*Statement of Particulars.*

STATEMENT of particulars referred to in the above or annexed order.

The following is a statement of particulars relating to the said *A.B.* [1]:—

Name of patient; with Christian name at length.

Sex and age.

†Married, single, or widowed.

†Rank, profession, or previous occupation (if any).

†Religious persuasion.

Residence at or immediately previous to the date hereof.

†Whether first attack.

Age on first attack.

When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.

†Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others, and in what way.

[1] If any particulars are not known, the fact is to be so stated. [Where the patient is in the order described as an idiot omit the particulars marked†.]

53 Vict. c. 5.

Whether any near relative has been afflicted with insanity.  
 Union to which lunatic is chargeable.

Names, Christian names, and full postal addresses of one or more relatives of the patient.

Name of the person to whom notice of death to be sent, and full postal address if not already given.

(Signed)

To be signed by the relieving officer, overseer, or other person on whose information the order is made.

Section 335.

FORM 16.

[Certificate of disability of person entitled to payments from a public department.]

Section 335.

FORM 17.

[Medical certificate of disability of person entitled to payments from a public department.]

Section 207.

FORM 18.

[Form of licence by commissioners for a house not previously licensed.]

Section 207.

FORM 19.

[Form of licence by justices for a house not previously licensed.]

Section 207.

FORM 20.

[Licence by commissioners or justices for a house previously licensed.]

Section 248.

FORM 21.

FORM of AGREEMENT for uniting for the purpose of erecting or providing an asylum for the reception of lunatics.

It is agreed this day of between the visiting committees for the county of and the borough of [as the case may be], that the said county and borough [as the case may be] shall henceforth be united for the purposes of the Lunacy Act, 1890; and that an asylum for the reception of lunatics, with all necessary buildings, courts, yards, and outlets, shall be immediately provided and properly fitted up and accommodated for the purposes mentioned in the said Act; and that the necessary expenses attending the providing, building, fitting up, repairs, and maintenance of the said asylum shall be defrayed by the said county and borough, so united, in the following proportions, such proportions being fixed according to the probable extent of the accommodation required for the lunatics of the contracting county and borough; (that is to say,)

The county of five ninths of the said expenses.

The borough of four ninths of the same.

[as the case may be, or if the expenses are not fixed with reference to the probable extent of the accommodation, insert instead of the last clause.]

The expenses shall be from time to time charged upon and raised by such county and borough in proportion to their respective populations as stated in the last return for the time being made of the same under the authority of Parliament.

And it is further agreed, that the committee of visitors to superintend the building, erection, and management of the said asylum shall be appointed in the following proportions; the council for the said county of shall appoint\*, and the council for the borough of shall appoint\* and the proportions in which the said

[\* Insert in these blanks either the number or the proportion of visitors: and where the number of the committee of visitors is not fixed in the agreement, but only the proportions, a provision shall be made by the agreement for fixing from time to time the number of such committee.]

committee of visitors are to be appointed as aforesaid may be from time to time varied, with the consent in writing under the hands of the greater number of visitors of the said county and borough, and with the consent of the Commissioners in Lunacy. And hereunto, we, the undersigned, being the majority of each of the committees appointed by the said councils respectively, do on behalf of the said councils set our hands and seals, this

## FORM 22.

## FORM OF SUMMONS.

WE, the Commissioners in Lunacy [*or* we whose names are hereunto set and seals affixed, being two of the Commissioners in Lunacy, *or* visitors of ], do hereby summon you personally to appear before us at in the parish of in the county of on next the day of at the hour of in the noon of the same day, and then and there to be examined, and to testify the truth touching certain matters relating to the execution of the Lunacy Act, 1890.

Sealed with the common seal of "The Commissioners in Lunacy" [*or* Given under our hands and seals] this day of .

## THE THIRD SCHEDULE.

## PLACES WITHIN IMMEDIATE JURISDICTION OF COMMISSIONERS.

Section 208.

The cities of London and Westminster, the counties of London and Middlesex, and the following parishes and places; (that is to say) Barnes, Kew Green, Mortlake, Merton, Mitcham, and Wimbledon, in the county of Surrey; Southend, in the county of Kent; and East Ham, Leyton, Leytonstone, Low Leyton, Plaistow, West Ham, and Walthamstow, in the county of Essex; and also every other place, if any, within the distance of seven miles from any part of the cities of London or Westminster, or of the borough of Southwark.

## THE FOURTH SCHEDULE.

## BOROUGHS THE COUNCILS OF WHICH ARE LOCAL AUTHORITIES UNDER THIS ACT.

Sections 169, 240, 245, 246

|                   |                       |
|-------------------|-----------------------|
| Barnstaple.       | Newark.               |
| Bedford.          | Newbury.              |
| Berwick-on-Tweed. | Newcastle-under-Lyme. |
| Bridgwater.       | New Sarum.            |
| Bury St. Edmunds. | New Windsor.          |
| Cambridge.        | Penzance.             |
| Colchester.       | Poole.                |
| Doncaster.        | Rochester.            |
| Grantham.         | Scarborough.          |
| Gravesend.        | Shrewsbury.           |
| Guildford.        | Tiverton.             |
| Hereford.         | Warwick.              |
| Kings Lynn.       | Wenlock.              |
| London (City of). | Winchester.           |

## THE FIFTH SCHEDULE.

Section 342.

[*Enactments repealed.*]

## LUNACY ACT, 1891.

54 &amp; 55 Vict. c. 65. An Act to amend the Lunacy Act, 1890.

[5th August, 1891]

1. This Act may be cited as the Lunacy Act, 1891, and this Act shall be construed as one with the Lunacy Act, 1890 (in this Act called the principal Act), and this Act and the principal Act may be cited together as the Lunacy Acts, 1890 and 1891.

Short title.

53 &amp; 54 Vict. c. 5.



54 & 55 Vict.  
c. 65.

Classification  
of lunatics  
received under  
ss. 13, 16, of  
principal Act.  
Section 27.

2. [*Provisions as to relieving officers.*]

3. A lunatic sent to an institution for lunatics under section thirteen or sixteen of the principal Act shall be classified as a pauper, until it is ascertained that he is entitled to be classified as a private patient.

4. [*Lunatics in workhouses. Amendments of 53 & 54 Vict. c. 5, sec. 24.*]

5. [*Medical certificates under sec. 24 of principal Act.*]

6. Where a workhouse is situate in a county which does not include the union to which the workhouse belongs, a summary reception order made by a justice of the county in which the workhouse is situate may order a lunatic in the workhouse to be received in any asylum, in which pauper lunatics chargeable to the union, to which the workhouse belongs, may legally be received.

Section 38 (4).

7. Sub-section four of section thirty-eight of the principal Act is hereby repealed, and the following sub-section is substituted therefor:—

(4) A reception order shall remain in force for a year after the date by this Act or by an order of the commissioners appointed for it to expire, and thereafter for two years, and thereafter for three years, and after the end of such periods of one, two, and three years for successive periods of five years, if not more than one month nor less than seven days before the expiration of the period at the end of which, as fixed by this Act or by an order of the commissioners under sub-section two, the order would expire, and of each subsequent period of one, two, three, and five years respectively, a special report of the medical officer of the institution or of the medical attendant of the single patient as to the mental and bodily condition of the patient with a certificate under his hand certifying that the patient is still of unsound mind and a proper person to be detained under care and treatment is sent to the commissioners.

Section 39.

8. Section thirty-nine of the principal Act shall not apply to lunatics received under a removal order or to lunatics so found by inquisition.

9. [*Amendment of Lunacy Act, 1890, sec. 55 (3), (6). Absence from hospital or licensed house.*]

10. [*Amendment of Lunacy Act, 1890, sec. 56 (3). Change of residence of single patients.*]

11. [*Amendment of Lunacy Act, 1890, sec. 61 (1). Removal of pauper lunatic from a hospital or licensed house by guardians.*]

12. [*Hospitals may alter regulations.*]

Boroughs  
annexed to  
counties under  
s. 246 to con-  
tribute to  
expense of  
asylum.

13.—(3) Where under section two hundred and forty-six of the principal Act, a borough ceases to be a local authority under that Act, the borough shall for all purposes of that Act be annexed to and treated as part of the county in which the borough is situate, and if or so far as the borough has not contributed towards the expense of providing the asylum of the county, a sum to be paid by the borough towards the expenses already incurred in providing the asylum shall be fixed by agreement between the councils of the county and borough, or in default of agreement by an arbitrator appointed by the parties, or, if the parties cannot agree upon an arbitrator, by an arbitrator appointed by the Local Government Board. In fixing the sum to be paid by the borough, the borough shall be credited with any sums already contributed by the borough for lunacy purposes in excess of its legal liability; and the arbitrator shall take into consideration the amounts that may have been paid by the borough for the reception or maintenance, in the asylum of the county, of the lunatics of the borough.

51 & 52 Vict.  
c. 41.

(2) Where a borough had before the passing of this Act, by virtue of section eighty-six of the Local Government Act, 1888, and the determination of any contract, become liable to contribute to the county rate of the county in respect of a lunatic asylum, this section shall apply to such borough as if it had immediately after the passing of this Act ceased under section two hundred and forty-six of the principal Act, to be a local authority.

Power to refer  
questions as to  
asylums to the  
court or to  
arbitration.

14. Any question relating to lunatic asylums or the maintenance of lunatics arising between any local authorities under the principal Act and any boroughs not being local authorities under that Act, and any visiting committees or any two or more of such parties respectively, may be referred to an arbitrator appointed by the parties, or, if the parties cannot agree upon an arbitrator, by the Local Government Board.

15. The provisions of sub-sections five, six, and seven of section sixty-two of the Local Government Act, 1888(s), shall apply to every sum by virtue of this Act agreed to be paid or awarded by an arbitrator as if such sum had been agreed to be paid or awarded under section sixty-two of the Local Government Act, 1888.

54 & 55 Vict.  
c. 65.

S. 62 of  
51 & 52 Vict.  
c. 41 applied.

16. In sub-section two of section two hundred and fifty-four of the principal Act, there shall be added after the word "contracts" the words "for the purchase of lands and buildings and for the erection, restoration, and enlargement of buildings."

Amendment of  
s. 254 of  
53 & 54 Vict.  
c. 5.

17. [*Contracts by town councils and the subscribers to a hospital.*]

18. The provisions of the Local Government Act, 1888, relating to the accounts of county councils and their officers, and to the audit of such accounts(t), shall apply to the accounts of every asylum belonging wholly or in part to a county council and of the visiting committee and officers thereof.

Accounts of  
county  
asylums.

19.—(1) Where a lunatic in a hospital or licensed house becomes a pauper, the manager of the hospital or house may, after having given notice to the authority liable for the maintenance of the lunatic of his intentions so to do, apply to a justice of the peace having jurisdiction in the place where the hospital or house is situate for an order for the removal of the lunatic, and such justice may, if he thinks fit, make an order for the removal of the lunatic to an institution for lunatics to which pauper lunatics for whose maintenance the authority is liable may legally be sent and for the reception of the lunatic therein, and such institution shall be named in the order, and the manager of the hospital or house shall forthwith cause the lunatic to be removed to the institution named in the order. In the case of such removal the original reception order shall remain in force, and shall authorise the classification of the lunatic as a pauper lunatic in the institution to which he is removed.

Removal of  
lunatic  
becoming a  
pauper.

(2) The cost of obtaining an order under this section and of the removal of the lunatic shall be repaid to the manager who obtains the order by the authority liable for the maintenance of the lunatic, and any justice having jurisdiction in the place where the hospital or house from which the lunatic was removed is situate shall have power to fix the amount of such costs and to order such authority to repay the same. The provisions of section three hundred and fourteen of the principal Act shall apply to every such order for the repayment of costs.

20. [*Notice of reception of boarders into licensed houses and hospitals to be given to commissioners.*]

21. [*Complaints as to control of patients of hospitals.*]

22. The provisions of the principal Act for the payment of expenses in relation to pauper lunatics shall be applicable with respect to lunatics in institutions for lunatics who become paupers.

Payment of  
expenses as to  
lunatics  
becoming  
paupers.

23. [*Form 1 in second schedule to principal Act amended.*]

24. [*Amendment as to judicial authority under 53 & 54 Vict. c. 5.*]

25. [*Power to Lord Chancellor to confer powers of justice of the peace on member of board of guardians.*]

26. [*Amendments in procedure upon inquisitions.*]

27. [*Procedure as to Chancery lunatics.*]

28. [*Definition of seised and possessed.*]

29. The enactments in the schedule are hereby repealed.

Repeal.

(s) **Loc. Govt. Act, 1888.**—Sec. 62, *ante*, vol. i.

(t) **Accounts.**—For these provisions, see the Loc. Govt. Act, 1888, sec. 71, *ante*, vol. i. The order of the Loc. Govt. Bd., No. 28,768, dated Sept. 15th, 1892, prescribes the form of financial statement to be submitted to the district auditor by the visiting committee of a county lunatic asylum.

54 &amp; 55 Vict.

c. 65.

Section 29.

## THE SCHEDULE.

## ENACTMENTS REPEALED.

| Session and Chapter.    | Short Title.            | Extent of Repeal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 53 & 54 Vict. c. 5..... | The Lunacy Act, 1890... | <p>Section nine, sub-section one, from "having" to the end of the sub-section.</p> <p>Section ten, in sub-section one, the words "within the county and borough respectively" and in sub-section four the words "within the same" occurring twice.</p> <p>Section thirteen, sub-section two, from "within" to jurisdiction.</p> <p>Section twenty-four, sub-section six, from "that a pauper" to "asylum" where that word next occurs.</p> <p>Section sixty-two.</p> <p>Section ninety-nine the words "with a jury."</p> <p>Section one hundred and forty-nine.</p> <p>Section two hundred and forty-six, from "subject" to "an asylum."</p> <p>Section two hundred and seventy-nine.</p> <p>Section three hundred and thirty-eight, sub-section two, the words "in lunacy."</p> <p>The Second Schedule, Form 13.</p> <p>The Fourth Schedule, the references to "Dover" and "Maidstone" repealed as from the commencement of the Lunacy Act, 1890.</p> |



**MILITARY LANDS.****MILITARY LANDS ACT, 1892 (a).**

**55 & 56 Vict. c. 43.** An Act to consolidate and amend certain Enactments relating to the Acquisition of Land for Military Purposes.

[27th June, 1892]

**PART I.***Acquisition of Land for Military Purposes.*

1. \* \* \* \* \*

(3) The council of a county or borough may, at the request of one or more volunteer corps, purchase under this Act, and hold, land on behalf of the volunteer corps for military purposes. Powers to purchase land.

\* \* \* \* \*

2. For the purpose of the purchase of land under this Act, the Lands Clauses Acts (b) shall be incorporated with this Act, with the exceptions and additions and subject to the provisions following; that is to say— Machinery for purchase of land.

(1) There shall not be incorporated with this Act sections sixteen or seventeen of the Lands Clauses Consolidation Act, 1845, or the provisions of that Act with respect to affording access to the special Act.

(2) In the construction of this Act and the incorporated Acts this Act shall be deemed to be the special Act, and the Secretary of State, volunteer corps, or council of a county or borough, as the case may be (in this section referred to as "the purchaser"), shall be deemed to be the promoters of the undertaking.

\* \* \* \* \*

(4) The provisions of the incorporated Acts with respect to the purchase of land compulsorily shall not be put in force until a provisional order has been made and the sanction of Parliament has been obtained in manner in this Act mentioned.

(5) One month at the least before the making of the provisional order, if the Secretary of State is the purchaser, and before the application for the order in any other case, the purchaser shall serve, in manner provided by the Lands Clauses Acts, a notice on every owner or reputed owner, lessee or reputed lessee, and occupier of any land intended to be so purchased, describing the land intended to be taken, and in general terms the purposes to which it is to be applied, and stating the intention of the purchaser to obtain the sanction of Parliament to the purchase thereof, and inquiring whether the person so served assents or dissents to the taking of his land, and requesting him to forward to the purchaser any objections he may have to his land being taken.

\* \* \* \* \*

(7) Where the purchaser is a volunteer corps or the council of a county or borough—

(a) The corps or council may, if they think fit, on compliance with the provisions of this section with respect to notices, present a petition to a Secretary of State. The petition shall state the land intended to be taken, and the purposes for which the land is required, and the names of the owners, lessees, and occupiers of land who have assented, dissented, or are neuter in respect of the taking the land, or who have returned no answer to the notice. The petition shall pray that the corps or council may, with reference to the land, be allowed to put in force the powers of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement, and the prayer shall be supported by such evidence as the Secretary of State requires:

(b) On receipt of the petition and on due proof of the proper notices having been served, the Secretary of State shall take the petition into consideration,

(a) **Military Lands Act, 1892.**—Such provisions of this Act as are not set out do not affect the powers of the London local authorities.

(b) **Lands Clauses Acts.**—As to these Acts, the subject of which is beyond the scope of this work, see Cripps and other books on the "Law of Compensation."

55 & 56 Vict.  
c. 43.

and may either dismiss the same, or direct a public local inquiry to be held by a competent officer as to the propriety of assenting to the prayer of the petition.

(8) Before a local inquiry is held in pursuance of this section the Secretary of State shall publish a notice of the intention to hold the inquiry—

(a) by affixing copies conspicuously on or in the immediate neighbourhood of the land proposed to be acquired; and

(b) by advertising the notice once at least in each of two successive weeks in some one and the same local newspaper circulating in the neighbourhood.

(9) If after the local inquiry has been held the Secretary of State is satisfied that the land ought to be taken, he may make a provisional order to that effect, authorising the taking of the land either by himself or by a volunteer corps or by a council of a county or borough, as the case may be, and may submit a bill to Parliament for the confirmation of the provisional order, but the provisional order shall not be of any effect unless and until it is confirmed by Parliament.

(10) If, while the bill confirming any such order is pending in either House of Parliament, a petition is presented against anything comprised therein, the bill, so far as relates to the order, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of private bills.

Power to let  
land.

3. Land acquired under this Act may be let by a volunteer corps, or if acquired by the council of a county or borough by that council, in any manner consistent with the use thereof for military purposes.

Payment of  
expenses.

4. Any expenses incurred by the council of a county or borough for the purposes of this Act shall be defrayed by the council of a county out of the county fund . . .

\* \* \* \* \*

Power for  
Public Works  
Loan Commis-  
sioners to lend.  
38 & 39 Vict.  
c. 89.

7.—(1) The Public Works Loan Commissioners may in manner provided by the Public Works Loans Act, 1875, lend any money which may be borrowed for the purposes of this Act, and may so lend on the security authorised by this Act without requiring any other security.

(2) Every loan by the Public Works Loan Commissioners under this Act shall be repaid within a period not exceeding fifty years, and shall bear interest at a rate not less than three and a half per centum per annum, or such other rate as may be fixed by a minute of the Treasury under section two of the Public Works Loans Act, 1879.

42 & 43 Vict.  
c. 77.

Provision as to  
disbandment of  
corps, &c.

8. . . .

(3) If the volunteer corps on whose behalf land is acquired under this Act by a county or borough council is disbanded, the council may either appropriate the land to any purpose approved by the Local Government Board, or sell it for the best price that can be reasonably obtained, and any money arising from the sale shall be applied towards repaying any money borrowed for the purchase of the land, and so far as not required for that purpose shall be applied to any purpose to which capital moneys are properly applicable, and which is approved by the Local Government Board.

Provided that before so appropriating any such land or before selling any such land, if it is not so appropriated, the council shall offer to sell the same to the person then entitled to the land (if any) from which the same was originally severed, and thereupon sections one hundred and twenty-nine to one hundred and thirty two, both inclusive, of the Lands Clauses Consolidation Act, 1845 (c), shall apply as if the land were superfluous land and the council were the promoters of the undertaking within the meaning of those sections.

\* \* \* \* \*

8 & 9 Vict.  
c. 18.

Power to lease  
land held  
for public  
purposes.

11.—(1) Any person, body of persons, or authority holding land for ecclesiastical or public purposes may lease any such land to a Secretary of State or to a volunteer corps for military purposes for any term not exceeding twenty-one years, subject to the following provisions:

\* \* \* \* \*

- (b) A lease of parochial property shall be granted under and in accordance with the provisions of section three of the Union and Parish Property Act, 1835 (*d*), and the Acts amending the same: 55 & 56 Vict. c. 43.
- (c) Where the land is vested in any trustees, commissioners, or other body of persons, a majority of a meeting of such trustees, commissioners, or other body of persons duly convened may grant a lease under this section and execute any instrument for that purpose: 5 & 6 Will. 4, c. 69.
- (d) Where the land belongs to an administrative county, the county council may grant a lease under this section with the consent of the Local Government Board.
- (2) A lease under this section shall cease to have effect if the land ceases to be used for military purposes.

12. Any land leased under this Act shall be deemed to have ceased to be used for military purposes where there has not been such use for a period of one year, and a certificate of the fact of such non-user is given by a Secretary of State; and the certificate shall be conclusive evidence of the fact of such non-user. Proof that land has ceased to be used for military purposes.

13.—(1) Where a footpath crosses or runs inconveniently or dangerously near to any land leased under this Act, that footpath may, with the consent of the vestry of the parish in which the same is situate, and on the certificate of two justices that the footpath to be substituted is convenient for the public, be stopped up or diverted. Power to stop or divert footpaths.

(2) The provisions of the Highway Act, 1835, as to the obtaining of a certificate and the stopping up or diverting a highway where a person other than the inhabitants or vestry are desirous of stopping up, diverting, or turning a highway (*e*) shall apply so far as practicable to the obtaining of a certificate, and the stopping up or diverting a footpath under this section; with this exception, that the certificate of the justices shall be conclusive in cases where it states the fact of their having viewed the footpath to be stopped up or diverted, and that the proposed new footpath is convenient for the public. 5 & 6 Will. 4, c. 50.

## PART II.

### *Byelaws as to Land used for Military Purposes.*

14.—(1) Where any land belonging to a Secretary of State or to a volunteer corps is for the time being appropriated by or with the consent of a Secretary of State for any military purpose, a Secretary of State may make byelaws for regulating the use of the land for the purposes to which it is appropriated, and for securing the public against danger arising from that use, with power to prohibit all intrusion on the land and all obstruction of the use thereof. Power of Secretary of State to make byelaws as to use of land held for military purposes and securing safety of public.

Provided that no byelaws promulgated under this section shall authorise the Secretary of State to take away or prejudicially affect any right of common.

(2) Where any such byelaws permit the public to use the land for any purpose when not used for the military purpose to which it is appropriated, those byelaws may also provide for the government of the land when so used by the public, and the preservation of order and good conduct thereon, and for the prevention of nuisances, obstructions, encampments, and encroachments thereon, and for the prevention of any injury to the same, or to anything growing or erected thereon, and for the prevention of anything interfering with the orderly use thereof by the public for the purpose permitted by the byelaws.

(3) For the purposes of this section, "land belonging to a Secretary of State" means land under the management of a Secretary of State, whether vested

(*d*) **Union and Parish Property Act, 1835** (5 & 6 Will. 4, c. 69), sec. 3, empowers the guardians of any parish or union, and the overseers of any parish not under the management of a board of guardians, with the approbation and subject to the rules, orders, and regulations of the Loc. Govt. Bd., and with the consent of a majority of the ratepayers and owners of property, to sell, exchange, let, &c., *inter alia*, any land belonging to such parish or union. By the Poor Law Act, 1889, no other consent than that of the Loc. Govt. Bd. is required to the letting of parochial property by the board of guardians of a separate parish.

(*e*) **Stopping up highways.**—See note (*g*) to sec. 96 of the Met. Man. Act, 1855, *ante*, vol. i.



55 & 56 Vict.  
c. 43.

in Her Majesty or in the Secretary of State, or in a person as trustee for Her Majesty or the Secretary of State; and "land belonging to a volunteer corps" means any land vested in that corps or in any person as trustee for that corps.

Application of  
byelaws where  
right of firing  
acquired.

15. Where a Secretary of State or a volunteer corps has for the time being the right of using for any military purpose any land vested in another person (*f*), this part of this Act shall apply in like manner as if the land were vested in the Secretary of State or volunteer corps, and the same were appropriated for the said purpose, save that nothing therein or in any byelaws made thereunder shall injuriously affect the private rights of any person further or otherwise than is authorised by the grant of the right to use the land.

Byelaws as to  
highways.

16.—(1) A byelaw under this Act shall not interfere with any highway, unless made with the consent of the authority having control of the repair of the roads of the town, district, parish, or other area in which the highway is situate, but where it appears to the authority that any highway crosses or runs inconveniently or dangerously near to any land the use of which can be regulated by byelaws under this Act, the authority may consent to a byelaw providing to such extent as seems reasonable for the temporary diversion from time to time of the highway, or for the restriction from time to time of the use thereof.

(2) Any such highway, if a footpath, may (without prejudice to any other power of stopping up or diverting the same) be stopped up or diverted in the manner in which a footpath crossing or running inconveniently or dangerously near to any land leased under part one of this Act may be stopped up or diverted.

Notice and  
enforcement of  
byelaws.

17.—(1) A Secretary of State, before making any byelaws under this Act, shall cause the proposed byelaws to be made known in the locality, and give an opportunity for objections being made to the same, and shall receive and consider all objections made; and when any such byelaws are made, shall cause the boundaries of the area to which the byelaws apply to be marked, and the byelaws to be published, in such manner as appears to him necessary to make them known to all persons in the locality; and shall provide for copies of the byelaws being sold at the price of one shilling for each copy to any person who desires to obtain the same.

(2) If any person commits an offence against any byelaw under this Act, he shall be liable, on conviction before a court of summary jurisdiction, to a fine not exceeding five pounds, and may be removed by any constable or officer authorised in manner provided by the byelaw from the area, whether land or water, to which the byelaw applies, and taken into custody without warrant, and brought before a court of summary jurisdiction to be dealt with according to law, and any vehicle, animal, vessel, or thing found in the area in contravention of any byelaw, may be removed by any constable or such officer as aforesaid, and on due proof of such contravention, be declared by a court of summary jurisdiction to be forfeited to Her Majesty.

31 & 32 Vict.  
c. 37.

(3) A byelaw under this Act shall be deemed to be a regulation within the meaning of the Documentary Evidence Act, 1868, and may be proved accordingly (*g*).

Byelaws in  
case of  
leased land.

18.—(1) Where land has been leased under part one of this Act, a byelaw made in respect of that land shall not be inconsistent with any condition contained in the instrument of lease.

(2) Where land has been leased under part one of this Act subject to a condition that byelaws relating to the land shall be made with the consent of the lessor, or shall be made by the lessor subject to the approval of the Secretary of State, that condition shall be observed, and the lessor, acting with the approval of the Secretary of State, shall have the same power of making byelaws in relation to the land as is conferred by this Act on the Secretary of State.

(*f*) **Person.**—This expression includes any body of persons corporate or unincorporate. Interpretation Act, 1889 (52 & 53 Vict. c. 63).

(*g*) **Documentary Evidence Act, 1868.**—Under this Act, an Order in Council or of public offices may be proved by production of a Queen's Printers' copy of the order, or of a certified copy, or of a copy of the *London Gazette* in which the order was published.

PART III.

*Supplemental.*

55 & 56 Vict.  
c. 43.

19. This Act shall apply in the case of a yeomanry corps as if it were a volunteer corps; and all land acquired by a yeomanry corps shall vest in the commanding officer of the corps for the time being and his successors in office with power for him to sue and make contracts and conveyances and to do all other lawful acts relating thereto.

Application  
of Act to  
yeomanry  
corps.

20. Where any land is acquired under this Act or for military purposes under any Act with which the Lands Clauses Acts are incorporated, the person or authority acquiring the land may require that the compensation to be paid for the land be settled by arbitration and not by reference to a jury, and thereupon the provisions of the Lands Clauses Acts with reference to arbitration shall, if not already applicable, apply for the purpose of settling the compensation.

Power to  
have com-  
pensation  
settled by  
arbitration.

\* \* \* \* \*

22. All powers given by this Act shall be in addition to any other power to acquire land for military purposes conferred by any Act passed before this Act, and nothing contained in this Act shall prejudicially affect the powers vested in the Secretary of State for War under the Defence Acts and the Acts incorporated therewith.

Saving for  
acquisition of  
land under  
other Acts.

23. In this Act the expression "military purposes" includes rifle or artillery practice, the building and enlarging of barracks and camps, the erection of butts, targets, batteries, and other accommodation, the storing of arms, military drill, and any other purpose connected with military matters approved by the Secretary of State.

Interpretation.

In this Act and the enactments incorporated therewith the expression "land" includes any easement in or over lands, and for the purpose of part one of this Act includes any right of firing over lands or other right of user.

\* \* \* \* \*

29. This Act may be cited as the Military Lands Act, 1892.

Short title.

SCHEDULE.

[*Enactments repealed.*]

## OPEN SPACES.

|                                                                                                                                |                         |
|--------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 29 & 30 Vict. c. 122 ( " Metropolitan Commons Act, 1866 " ).....                                                               | page 1082               |
| 41 & 42 Vict. c. 71 ( " Metropolitan Commons Act, 1878 " ) .....                                                               | 1088                    |
| 39 & 40 Vict. c. 56 ( " Commons Act, 1876 " ), secs. 30 and 31... <i>note (d)</i> page                                         | 1088                    |
| 26 Vict. c. 13 ( " Town Gardens Protection Act, 1863 " ) .....                                                                 | 1088                    |
| 40 & 41 Vict. c. 35 ( " Metropolitan Open Spaces Act, 1877 " ).....                                                            | 1090                    |
| 44 & 45 Vict. c. 34 ( " Metropolitan Open Spaces Act, 1881 " ).....                                                            | 1091                    |
| 47 & 48 Vict. c. 72 ( " Disused Burial Grounds Act, 1884 " ) .....                                                             | 1097                    |
| 48 & 49 Vict. ch. clxvii. ( " Metropolitan Board of Works (Various Powers)<br>Act, 1885 " ), sec. 56..... <i>note (h)</i> page | 1097                    |
| 50 & 51 Vict. c. 32 ( " Open Spaces Act, 1887 " ) .....                                                                        | 1098                    |
| 53 & 54 Vict. c. 15 ( " Open Spaces Act, 1890 " ).....                                                                         | 1100                    |
| 56 & 57 Vict. ch. lxxi. ( " London Open Spaces Act, 1893 " ), sec. 25.. <i>note (z)</i> page                                   | 1095                    |
| 56 & 57 Vict. ch. ccxxi. ( " London County Council (General Powers)<br>Act, 1893 " ), sec. 18 .....                            | <i>note c</i> page 1105 |
| 58 & 59 Vict. ch. cxxvii. ( " London County Council (General Powers) Act,<br>1895 " ), sec. 45.....                            | 1101                    |
| 40 Vict. ch. viii. ( " Metropolitan Board of Works Act, 1877 " ) .....                                                         | 1102                    |
| 53 & 54 Vict. ch. ccxliii. ( " London Council (General Powers) Act, 1890 " )                                                   | 1103                    |

## METROPOLITAN COMMONS ACT, 1866 (a).

29 & 30 Vict. c. 122. An Act to make Provision for the Improvement, Protection, and Management of Commons near the Metropolis.

[10th August, 1866

Short title.

Definition of  
local authority  
and local rate.

Interpretation  
of terms.

1. This Act may be cited as the Metropolitan Commons Act, 1866.

2. For the purposes of this Act the local authority in relation to each metropolitan common shall be the authority described as such in connexion therewith in the first schedule to this Act; and for the purposes of this Act the local rate in relation to each metropolitan common shall be the rate described in connexion therewith in the same schedule.

3. In this Act—

The term "common" means land subject at the passing of this Act to any right of common (*b*); the term "commoner" means a person having any such right of common; the term "manor" includes reputed manor; and those terms as used in this Act respectively refer to any particular common to which this Act applies, and to every person having a right of common in, over, or affecting that common, and to the manor of the wastes whereof that common is part:

The term "*the commissioners*" means the *Inclosure Commissioners* (*c*) for England

(*a*) **Commonable rights.**—The Commonable Rights Compensation Act, 1882 (45 Vict. c. 15), provides for the application of moneys paid by railway and other companies under the provisions of the Lands Clauses Acts, &c., to a committee of commissioners as compensation for the extinguishment of commonable or other rights, or for lands being common lands. *Inter alia*, such money may be applied in the purchase of land to be used as a recreation ground for the neighbourhood, such recreation ground to vest in and be maintained by the local authority. The local authority in London was the Met. Bd. Wks., *ib.*, and is now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(*b*) **Common.**—The following words are added to the interpretation of the term "common" by the Met. Commons Amend. Act, 1869 (32 & 33 Vict. c. 107), sec. 2, viz., "and any land subject to be included under the provisions of 8 & 9 Vict. c. 118," i.e., the Inclosure Act, 1845.

(*c*) **Inclosure Commissioners.**—These commissioners were appointed under the Inclosure Act, 1845 (8 & 9 Vict. c. 118), which is "an Act to facilitate the enclosure and improvement of commons, and lands held in common," &c. Their powers and duties are now exercised by the Board of Agriculture. Board of Agriculture Act, 1889 (52 & 53 Vict. c. 30), sec. 2.



and Wales, and the term "*assistant commissioner*" means the *assistant commissioner appointed by the Inclosure Commissioners (d)*.

29 & 30 Vict.  
c. 122.

4. This Act shall apply to any common the whole or any part whereof is situate within the metropolitan police district (*e*) as defined at the passing of this Act (referred to in this Act as a metropolitan common).

To what commons Act applies. Exclusion of authority of *commissioners (f)* to inclose, &c.

5. The *commissioners (f)* shall not entertain an application for the inclosure of a metropolitan common, or any part thereof: . . . and notwithstanding any proceedings taken under any Act other than this Act, or any provisional order of the commissioners made but not already confirmed by Act of Parliament, proceedings may be taken under this Act in relation to any metropolitan common.

Memorial for scheme as to common.

6. A scheme for the establishment of local management with a view to the expenditure of money on the drainage, levelling, and improvement of a metropolitan common, and to the making of byelaws and regulations (*g*) for the prevention of nuisances and the preservation of order thereon, may be made under this Act (*h*), on a memorial in that behalf presented to the *commissioners (f)* by the lord of the manor or by any commoners, or by the local authority, or in case of a common extending into the districts of two or more of the bodies described in the first schedule to this Act, then by any one or more of such bodies (*i*).

7. On the presentation of any memorial under this Act the *commissioners (f)* (if on consideration of the memorial they think fit) may make such examination and inquiry as they think necessary or proper in relation to the subject matter of the memorial.

Inquiry into memorial.

8. On such examination and inquiry the *commissioners (f)* may, if they think fit, prepare the draft of a scheme respecting the common or any part thereof.

Preparation of draft scheme.

9. Where the *commissioners (f)* prepare the draft of a scheme they shall cause it to be printed, and printed copies of it to be delivered to the memorialists and to the lord of the manor and to the local authority, and shall also cause it, or a proper abstract of it, to be published and circulated in such manner as they think sufficient for giving information to all parties interested.

Printing and publication of draft scheme.

10. During two months after the first publication of the draft of a scheme the *commissioners (f)* shall receive any objections or suggestions made to them in writing respecting the scheme.

Objections and suggestions respecting scheme.

11. At any time after the expiration of those two months, the *commissioners (f)*, if they think fit, may refer the draft of the scheme to an *assistant commissioner (d)*.

Inquiry into scheme by public sittings.

On any such reference the assistant commissioner shall proceed to make an inquiry concerning the subject matter of the scheme, and for that purpose to hold a sitting or sittings in some convenient place in the neighbourhood of the common, and thereat to take and receive any evidence and information offered, and hear and inquire into any objections or suggestions made or to be made during the sitting or sittings, respecting the scheme or the common, with power from time to time to adjourn any sitting.

Notice shall be published, in such manner as the *commissioners (f)* direct, of every such sitting (except an adjourned sitting), fourteen days at least before the holding thereof.

12. The *assistant commissioner (d)* to whom the draft of a scheme is referred shall make a report in writing to the *commissioners (f)* setting forth the result of

Report of *assistant commissioner (d)*.

(*d*) **Assistant commissioner.**—Now any officer of the Board of Agriculture for the time being assigned for that purpose. Board of Agriculture Act, 1889, sec. 11 (1).

(*e*) **Metropolitan police district.**—See note to sec. 93 (1) of the Loc. Govt. Act, 1888, *ante*, vol. I., for the meaning of this expression.

(*f*) **Commissioners.**—Now the Board of Agriculture. See note to sec. 3, *ante*.

(*g*) **Byelaws and regulations.**—As to the power of the County Council to make byelaws in relation to parks, commons, and open spaces, see the Met. Bd. Wks. Act, 1877, and the London Council (Genl. Powers) Act, 1890, *post*.

(*h*) **Scheme.**—An injunction was granted restraining the Met. Bd. Wks. from promoting a scheme for dealing with a metropolitan common which was inconsistent with the conditions on which the manor had been conveyed. *Telford v. Met. Bd. Wks.*, L. R. 13 Eq. 574; 41 L. J. Ch. 589.

(*i*) **Presentation of memorial.**—The memorial may be presented by any twelve or more ratepayers, inhabitants of the parish or parishes in which the metropolitan common is situate, as well as by the person, persons, or body described in this section. Met. Commons Amend. Act, 1869 (32 & 33 Vict. c. 107), sec. 2.

29 & 30 Vict.  
c. 122.

Final settle-  
ment and  
approval of  
scheme.

Scheme to  
state rights  
affected.

Provision for  
compensation.

Appeal against  
determination  
of Bd. of Agri-  
culture.

8 & 9 Vict.  
c. 118, s. 56.  
Printing and  
sale of scheme.

Scheme when  
approved to be  
certified.  
Printing and  
publication of  
scheme.

Annual report  
to be laid  
before Houses  
of Parliament.

the inquiry, and whether in his opinion the draft of the scheme should be approved with or without alteration, and if with any, then with what alteration, and his reasons for the same, and the objections and suggestions, if any, made on the inquiry, and his opinion thereon.

**13.** As soon as may be after the expiration of the said two months, or the receipt by the *commissioners* (*l*) of the report of the *assistant commissioner* (*m*) (as the case may be), the *commissioners* (*l*) shall proceed to consider any objections or suggestions made to them in writing respecting the scheme, and the report (if any), and thereupon they shall, if they think fit, finally settle and approve of the scheme in such form as they think expedient.

**14.** Every scheme shall state what rights (if any) claimed by any person or class of persons are affected by the scheme, and in what manner and to what extent they are affected thereby, and whether or not the scheme has been in relation thereto consented to by that person or class of persons, or any of them.

**15.** No estate, interest, or right of a profitable or beneficial nature (*n*) in, over, or affecting a common shall, except with the consent of the person entitled thereto, be taken away or injuriously affected by any scheme, without compensation being made or provided for the same, and such compensation shall, in case of difference, be ascertained and provided in the same manner as if the same compensation were for the compulsory purchase and taking or the injurious affecting of lands under the provisions of the Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860 (*o*).

**16.** If any person claiming any estate, interest, or right in, over, or affecting the common to which any scheme relates is dissatisfied with any determination made or implied by the *commissioners* (*l*) or by the scheme concerning any estate, interest, or right in, over, or affecting the common, every such person may obtain a decision thereon in an action at law in the manner provided by the Inclosure Act, 1845 (*p*).

**17.** Every scheme shall contain a provision for the sale at all times of printed copies thereof to all persons desiring to buy the same, at a price not exceeding a reasonable sum to be fixed by the scheme.

**18.** Every scheme, when approved by the *commissioners* (*l*), shall be certified by them, and sealed with their common seal.

**19.** Where the *commissioners* (*l*) certify a scheme they shall cause printed copies of it to be delivered to the memorialists and to the lord of the manor and to the local authority, and shall also cause it, or a proper abstract of it, to be published and circulated in such manner as they think sufficient for giving information to all parties interested.

**20.** The *commissioners* (*l*) shall in the month of February in every year make a separate report to Her Majesty of all their proceedings under this Act during the year ending the thirty-first day of December then last past.

The report shall be laid before both Houses of Parliament within fourteen

(*l*) **Commissioners.**—Now the Bd. of Agriculture. See note to sec. 3, *ante*.

(*m*) **Assistant commissioner.**—See note (*d*) on page 1083.

(*n*) **Beneficial right.**—Where a sign-post, bearing the sign of a public-house, had stood on a common for forty years, it was held a beneficial right within the above section had been gained, and that when the sign-post was blown down the owner of the beneficial right was entitled to erect a new one, notwithstanding a byelaw of the Met. Bd. Wks. forbidding the erection on the common of posts or poles. *Hoare v. Met. Bd. Wks.*, L. R. 9 Q. B. 296; 43 L. J. M. C. 65.

(*o*) **Lands Clauses Acts.**—As to these Acts, the subject of which is beyond the scope of the present work, see Cripps and other books on the "Law of Compensation."

(*p*) **The Inclosure Act, 1845**, sec. 56, provides that any person claiming to be interested in any land proposed to be enclosed, who shall be dissatisfied with the determination of the Inclosure Commissioners, and who shall give notice of such dissatisfaction to the commissioners within thirty days after notice of such determination, may bring an action upon a feigned issue against the person in whose favour the determination shall have been made, or against the commissioners, the costs to abide the event of the trial. For Inclosure Commissioners substitute now the Bd. of Agriculture. See note to sec. 3, *ante*.

days after the making thereof, if Parliament is then sitting, and if not, then within fourteen days after the next meeting of Parliament. 29 & 30 Vict. c. 122.

21. The *commissioners* (*q*) in such annual report shall set forth in full every scheme certified by them during the year to which the report relates, and shall state the grounds of their approval thereof, and the objections, if any, made thereto and overruled, and all proceedings had in respect of those objections, and the grounds on which they were overruled. Contents of report.

22. A scheme certified by the *commissioners* (*q*) shall not of itself have any operation, but the same shall have full operation when and as confirmed by Act of Parliament, with such modifications, if any, as to Parliament seem fit. Confirmation of scheme by Act of Parliament.

23. If in the progress through Parliament of a bill confirming any scheme certified by the *commissioners* (*q*) a petition is presented to either House of Parliament against the scheme, the bill, as far as it relates to the scheme petitioned against, may be referred to a select committee and the petitioner shall be allowed to appear and oppose as in case of a private bill. Reference of scheme to select committee if opposed.

24. All expenses incurred by the *commissioners* (*q*) in relation to any memorial, or to any scheme consequent thereon, shall be defrayed by the memorialists, or by any ratepayers or inhabitants of the parish or district in or near to which the common is situate, or of the Metropolis willing and offering to defray those expenses, or by the local authority if willing and offering to defray the same; and the *commissioners* (*q*) may, if they think fit, on or at any time after the presentation of the memorial, require the memorialists or those ratepayers or inhabitants, or any of them, or the local authority having offered as aforesaid (as the case may be), to pay to the *commissioners* (*q*) such sum as the *commissioners* (*q*) think requisite for or on account of those expenses, or to give security to the satisfaction of the *commissioners* (*q*) for the payment of those expenses on demand. Expenses of scheme to be defrayed by memorialists, &c.

25. The local authority may in relation to any metropolitan common for which they are the local authority, and the *Metropolitan Board of Works* (*r*) may in relation to any metropolitan common (although not one for which they are the local authority) contribute such amount as they think fit (in a gross sum or by annual payments or otherwise) towards the expenses of executing any scheme under this Act when confirmed by Act of Parliament, including the payment of the compensation (if any) to be paid in pursuance thereof. Power for local authority to contribute for purposes of scheme.

26. All expenditure incurred by a local authority under this Act shall be defrayed by them out of the local rate, and all expenditure incurred by the *Metropolitan Board of Works* (*r*) under this Act, in cases where they are not the local authority, shall be defrayed by them out of the rate which in the first schedule to this Act is described as the local rate in connexion with the *Metropolitan Board of Works* (*r*); and the amount requisite in that behalf respectively shall be raised by means of such respective rate accordingly. Expenses of local authority to be paid out of local rate.

27. The *commissioners* (*q*) may from time to time approve and certify a scheme for amending any scheme confirmed by Act of Parliament, and all the provisions of this Act relative to an original scheme shall apply also to an amending scheme, mutatis mutandis. Amendment of schemes.

28. Where any lord of a manor, commoner, or other person having any estate, interest, or right in, over, or affecting a common is under the disability of infancy, lunacy, or coverture, or other legal disability, or is beyond the seas, his or her guardian, trustee, committee of the estate, husband, or attorney (as the case requires), or in default thereof a person nominated in that behalf by the *commissioners* (*q*) under their common seal (which nomination they are hereby empowered to make as occasion requires), shall for the purposes of this Act be deemed to be substituted in the place of such lord, commoner, or other person. Provision for cases of disability.

29. Where any estate, interest, or right in, over, or affecting a common belongs to or is enjoyed by Her Majesty, in right of the Crown, or forms part of the possessions of the Duchy of Lancaster or of the Duchy of Cornwall, any Consent with respect to Crown or duchy rights.

(*q*) **Commissioners.** Now the Bd. of Agriculture. See note to sec. 3, *ante*.

(*r*) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.



29 & 30 Vict.  
c. 122.

consent for the purposes of any scheme under this Act may be given in respect of that estate, interest, or right as follows; namely—

In the first-mentioned case, if the estate, interest, or right is under the management of the Commissioners of Woods, then by those commissioners or one of them with the approval of the Treasury; and if it is under the management of the Commissioners of Works, then by the last-mentioned commissioners with the like approval:

In the secondly-mentioned case by the Chancellor of the Duchy of Lancaster, by writing under his hand attested by the clerk of the council of the duchy:

In the thirdly-mentioned case by the Duke of Cornwall, or other the persons for the time being empowered to dispose for any purpose of lands of the Duchy of Cornwall.

Power for  
lord of manor,  
&c. to appoint  
agent.

**30.** Any lord of a manor, commoner, or other person having any estate, interest, or right in, over, or affecting a common may, by a power of attorney in writing under his hand (which shall be exempt from stamp duty), appoint an agent to act for him for the purposes of any memorial or scheme under this Act.

All things by this Act directed or authorised to be done by or with relation to any lord of a manor, commoner, or other person as aforesaid may be lawfully done by or with relation to his agent so appointed.

Every such agent may, in the name and on behalf of his principal, sign, concur in, and execute any memorial or act, or signify consent or dissent on any matter arising out of the execution of this Act.

Every person shall be bound by the acts of any such agent according to the authority committed to him as fully as if the principal had himself acted.

Every such power of attorney, or a copy thereof examined and authenticated as a true copy by the signature of a witness or witnesses, shall be deposited with the commissioners.

Any such power of attorney may be in the form given in the second schedule to this Act or to the like effect.

Provision for  
conveyance  
to commis-  
sioners (s).  
9 Geo. 2, c. 36.

**31.** Where any estate, interest, or right in, over, or affecting a common is by deed conveyed for the purposes of a scheme under this Act, with the approval of the commissioners (s), the provisions of the Act of the ninth year of the reign of King George the Second (chapter thirty-six), "to restrain the disposition of lands whereby the same become unalienable," shall not apply to the conveyance (t).

Power for  
Crown to vest  
manorial, &c.  
rights in  
commissioners.

**32.** Notwithstanding anything in any other Act, it shall be lawful for Her Majesty, from time to time, for the purposes of a scheme under this Act, to grant to any persons or body, for such estate or interest, and on such terms and subject to such conditions as to Her Majesty seem meet, all or any part or parts of the open and uninclosed lands being wastes of the royal manor of East Greenwich in the county of Kent, and also to so grant all or any of the rights of common which Her Majesty has for the time being in, over, or affecting any metropolitan common, and which might by law be so granted by a private person entitled absolutely thereto, and in every such case such persons or body, their heirs, successors, executors, or administrators, shall have full capacity to take and hold the same lands or rights.

Whenever it is the pleasure of Her Majesty to make a grant as aforesaid, the Treasury may issue a warrant to such persons or body.

Every such warrant shall be exempt from stamp duty, and shall be inrolled as conveyances in lands forming part in the land revenues of the Crown in England are required to be inrolled, and the inrolment thereof shall be certified at the foot or on the back thereof by the proper officer by whom the same is inrolled under his hand, and the same when inrolled shall be returned with the certificate of inrolment to the grantees named in the warrant.

From and immediately after the inrolment of the warrant the grantees by force of this Act shall be deemed to be in the actual seisin or possession of the lands or rights in the warrant specified, and shall hold and enjoy the same, according to the warrant, for the purposes therein specified.

(s) **Commissioners.**—Now the Bd. of Agriculture. See note to sec. 3, *ante*.

(t) **9 Geo. 2, c. 36.**—This Act is repealed and provisions are substituted by the Mortmain and Charitable Uses Acts, 1888 (51 & 52 Vict. c. 42), and 1891 (54 & 55 Vict. c. 73).

## SCHEDULES.

-29 & 30 Vict.  
c. 122.

## THE FIRST SCHEDULE.

*Description of Local Authority and Local Rate.*

| Metropolitan Common.                                                                                                                                                                                                                                                                                        | Local Authority.                                                             | Local Rate.                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| A metropolitan common, the whole or any part whereof is situate within the Metropolis as defined by the Metropolis Management Act, 1855.                                                                                                                                                                    | The <i>Metropolitan Board of Works</i> (u).                                  | The rate leviable for defraying the expenses of the board in the execution of The Metropolis Management Act, 1855, and the Acts amending the same (x). |
| A metropolitan common, the whole or any part whereof is situate within the district of a <i>local board</i> (y) constituted under <i>The Public Health Act, 1848, and The Local Government Act, 1858</i> (z), or one of them, and no part whereof is situate within the Metropolis as defined as aforesaid. | The local board.....                                                         | The general district rate.                                                                                                                             |
| Any other metropolitan common.                                                                                                                                                                                                                                                                              | The vestry of the parish in which the common or any part thereof is situate. | The poor rate.                                                                                                                                         |

## THE SECOND SCHEDULE.

*Form of Power of Attorney.*

## THE METROPOLITAN COMMONS ACT, 1866.

I, *A.B.* of \_\_\_\_\_ in pursuance of the above-mentioned  
 Act, appoint \_\_\_\_\_ of \_\_\_\_\_ to be my agent for all  
 the purposes of that Act [*or for a specified purpose under the Act*].  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_.  
 (Signed) *A.B.*  
 Witness,  
*C.D.*

(u) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(x) **Rate.**—Now the county rate in the administrative county of London. Loc. Govt. Act, 1888, secs. 3 (1) and 40 (9), *ante*, vol. i.

(y) **Local board.**—Now called urban district council. Loc. Govt. Act, 1894 (56 & 57 Vict. c. 73), sec. 21 (1). The council of an urban district created by a county council under the Loc. Govt. Act, 1888, sec. 57, *ante*, vol. i., is a “local authority” within the meaning of this Act. *Reg. v. Barnes, Ex parte Ratcliff*, 13 T. L. R. 25.

(z) **The Pub. Hlth. Act, 1848, and the Loc. Govt. Act, 1858**, are repealed and replaced by the Pub. Hlth. Act, 1875 (38 & 39 Vict. c. 55).

## METROPOLITAN COMMONS ACT, 1878.

41 & 42 Vict. c. 71. An Act to extend to Metropolitan Commons certain provisions of the Commons Act, 1876. [16th August, 1878]

Short title.  
29 & 30 Vict.  
c. 122.

32 & 33 Vict.  
c. 107.

County council  
may acquire  
and hold  
common rights.  
18 & 19 Vict.  
c. 120.

39 & 40 Vict.  
c. 56.

Extension of  
certain pro-  
visions of  
39 & 40 Vict.  
c. 56 to  
metropolitan  
commons.

1. This Act shall be cited as the Metropolitan Commons Act, 1878, and shall be read as forming one Act with the Metropolitan Commons Acts, 1866 and 1869.

2. The *Metropolitan Board of Works* (a) shall, in respect of any common situate within the Metropolis as defined by the Metropolis Management Act, 1855 (b), have the same power to purchase and hold, with a view to prevent the extinction of the rights of common, any saleable rights in common, or any tenement of a commoner having annexed thereto rights of common, as is conferred by the fifth paragraph of the eighth section of the Commons Act, 1876, upon an urban sanitary authority in respect of a suburban common (c).

3. Sections thirty and thirty-one of the Commons Act, 1876 (d), shall, after the passing of this Act, apply to metropolitan commons within the meaning of the Metropolitan Commons Acts of 1866 and 1869.

## TOWN GARDENS PROTECTION ACT, 1863(e).

26 Vict. c. 13. An Act for the Protection of certain Garden or Ornamental Grounds in Cities and Boroughs. [4th May, 1863]

Gardens in  
certain  
squares, &c.  
may be freed  
from neglect,  
encroachments,  
&c. and vested  
in the county  
council, or  
other corporate  
authority ;

1. Where in any city or borough any enclosed garden or ornamental ground has been set apart otherwise than by the revocable permission of the owner thereof (f) in any public square, crescent, circus, street, or other public place, for the use or enjoyment of the inhabitants thereof, and where the trustees, commissioners, or other body appointed for the care of the same have neglected to keep it in proper order, or where such garden or ground has not been vested in or placed under the management of any trustees, commissioners, or other

(a) *Met. Bd. Wks.*—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*.

(b) *The Metropolis* is defined by sec. 250 of Met. Man. Act, 1855, *ante*, vol. i.

(c) *Suburban common.*—The Commons Act, 1876, applies to suburban commons. The fifth paragraph of sec. 8 provides that an urban sanitary authority may “in the case of any such suburban common, purchase and hold as aforesaid, with a view to prevent the extinction of the rights of commoners, any saleable rights in common, or any tenement of a commoner having annexed thereto rights of common.”

(d) *Commons Act, 1876.*—This Act does not apply to metropolitan commons. *Ib.*, sec. 35. *See sec. 20 as to digging gravel.*

*Section 30* confers jurisdiction on the county court to hear any case relating to any illegal inclosure or encroachment of or upon a common, or to any nuisance impeding the exercise of any right of common, made or arising after the passing of the Act, and to grant an injunction against, or to make an order for the removal or abatement of such inclosure, encroachment, or nuisance. An appeal lies to the High Court. *Ib.*

*Section 31* enacts that “Any person intending to inclose or approve a common or part of a common otherwise than under the provisions of this Act shall give notice to all persons claiming any legal right in such common or part of a common, by publishing, at least three months beforehand, a statement of his intention to make such inclosure, for three successive times, and in two or more of the principal local newspapers in the county, town, or district in which the common or part of a common proposed to be inclosed is situate ; but the provisions of this section shall not apply to any commons or waste lands whereon the rights of common are vested solely in the lord of the manor . . .”

(e) *Short title.*—This short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(f) *Otherwise than by revocable permission of owner.*—This Act does not apply to gardens in squares which have not been set apart for the use or enjoyment of the inhabitants of the square otherwise than by the revocable permission of the owner. There must be some legal right conferred on the inhabitants of the square, and with respect to a garden where there was no such legal right, it was held that the Met. Bd. Wks. could not exercise any powers under this section. *Tulk v. Met. Bd. Wks.*, L. R. 3 Q. B. 682 ; 37 L. J. Q. B. 272.

*have as therein  
expressly  
provided, /*



body for the care of the same, and from the want of such care, or from any other cause, has been neglected, the *Metropolitan Board of Works* (g), where the same is in any place under their jurisdiction, except the City of London (where the provisions of this Act shall be carried into effect by the corporation of the said City), and the corporate authorities in any other city or borough, shall take charge of the same, putting up a notice or notices to that effect in such garden or ornamental ground, and if after due inquiry the person entitled to any estate of freehold in the same cannot be found, or if it shall be vested in any person by whom it is held, subject to any condition or reservation for keeping the same as and for a garden or pleasure ground, or that the same shall not be built upon, but not otherwise, shall cause any buildings or other encroachment made therein within the period of twenty years before the passing of this Act to be removed, and (if requested by a majority of two-thirds of the owners and of the occupiers of the houses surrounding the same) shall vest such garden or ornamental ground in a committee consisting of not more than nine nor fewer than three of the rated inhabitants of such houses to be chosen annually by such inhabitants, in order that the same may be kept as a garden or ornamental ground for the use of such inhabitants; and the vestry or board of any and every parish or district within which the same or any part thereof is situate shall from time to time cause to be raised the sums required by such committee for defraying the expenses of the maintenance and management of such enclosed garden or ornamental ground, or of such part thereof as is situate within their parish or district, by an addition to the general rate to be assessed on the occupiers of such houses; or if the said owners and occupiers shall not agree as aforesaid to undertake the charge of such garden or ornamental ground, the *Metropolitan Board of Works* (g) or corporate authority aforesaid shall, within six months after the notice hereinbefore mentioned shall have been put up within the same, or within such further time as the said board (g) or authority may think it expedient to allow for such agreement to be come to, vest the same in such vestries or boards, who shall thenceforth take charge of and maintain the same as an open place or street in such manner as shall appear to them most advantageous to the public, subject to the approval of the *Metropolitan Board of Works* (g) or corporate authority, as the case may require; saving and always reserving to every person and persons, his and their heirs, executors, administrators, and assigns, all such estate, right, title, and interest as he, she, or they would or ought to have had and enjoyed of, in, to, from, or out of the gardens and grounds aforesaid in case this Act had not passed.

26 Vict. c. 13.

or vested in a  
committee  
of rated  
inhabitants.

2. Where any right to require that any garden or ornamental ground as aforesaid be kept and maintained as such, or that the same shall not be built upon, shall belong to any person in right of any house or other property, and he shall by notice in writing signed by him addressed to the *Metropolitan Board of Works* (g) where the same is in any place under their jurisdiction, except the City of London, where the same shall be addressed to the Corporation of the said City, or to the corporate authorities in any other city or borough, requesting the said *Metropolitan Board of Works* (g) or corporate authority to protect the right before mentioned, the said *Metropolitan Board of Works* (g) or corporate authority, after due inquiry, may, if they shall think fit, accede to such request, and then and thereupon the right of such person to require that such garden or ornamental ground to be maintained as such, or that the same shall not be built upon, shall thenceforth be vested in such *Metropolitan Board of Works* (g) or corporate authority, who shall be fully empowered for and in their own name, to exercise all the rights, powers, and privileges in relation thereto, and take such legal proceedings for asserting, defending, and protecting the same, as the said person might have exercised or taken.

Protection of  
open spaces  
from encroach-  
ment.

3. Any charge incurred by the *Metropolitan Board of Works* (g) in the execution of this Act shall be deemed to be expenses of the said board for payment whereof provision is made by the Act for the better local management of the Metropolis (h) . . .

Expenses how  
to be defrayed.

(g) *Met. Bd. Wks.*—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(h) *Expenses.*—The expenses of the county council under this Act are defrayed out of the general county rate. Loc. Govt. Act, 1888, sec. 40 (9), *ante*, vol. i. The remainder of this section applies to municipal corporations.

26 Vict. c. 13.  
Byelaws for  
management of  
garden, &c.

4. Where any such garden or ground is managed by any committee of the inhabitants of any square, crescent, circus, street, or place, such committee may make, and from time to time revoke and alter, byelaws for the management of the same (*i*), and for the preservation of the trees, shrubs, plants, flowers, rails, fences, seats, summer-houses, and other things therein, which byelaws shall be entered in a book kept for that purpose by the committee, signed by the chairman of the meeting at which the same shall be passed, and which book shall and may be produced and read, and taken as evidence of such byelaws, in all courts whatever, and any inhabitant or servant, or other person admitted to such garden by any inhabitant, offending against the same, after they shall have been duly allowed, as hereinafter provided, upon proof thereof before a magistrate acting for the district in which such garden is situate, shall be liable for each offence to a penalty not exceeding five pounds: Provided always, that such byelaws shall not come into operation until the same shall have been allowed by some judge of one of the superior courts, or by the justices in quarter sessions; and it shall be incumbent on such judge or justices, on the request of such committee, to inquire into any byelaws tendered to them for that purpose, and to allow or disallow the same as they think meet.

Penalty for  
injuring  
garden.

5. Any police constable who shall see any person throwing any rubbish into any such garden, or trespassing therein, or getting over the railings or fence, or stealing or damaging the flowers or plants, or committing any nuisance therein, may apprehend such person, under the authority hereby given to him; and any person convicted before any magistrate acting for the district shall be liable for each and every offence aforesaid to a penalty not exceeding forty shillings, or to imprisonment for any period not exceeding fourteen days; and in case it shall be necessary to state in any proceedings the ownership of the property of such garden, flowers, or plants, it shall be sufficient to describe the same as the property of the committee by the name of *A.B.* and others.

Certain provisions of  
18 & 19 Vict.  
c. 120 to be  
incorporated  
with this Act,  
and to apply  
to penalties,  
&c. imposed  
by this Act.  
Act not to  
extend to  
property of the  
Crown or to  
property under  
the manage-  
ment of the  
Commissioners  
of Works, &c.  
Extent of Act.

6. The provisions contained in the two hundred and twenty-fifth, two hundred and twenty-sixth, two hundred and twenty-seventh, and two hundred and twenty-eighth sections of the Metropolis Management Act, 1855, shall be incorporated in this Act, and shall apply to any penalty or forfeiture imposed by this Act, or any byelaw made in pursuance thereof, in and for every matter or thing done or omitted to be done within the metropolitan district (*k*) . . .

7. Nothing in this Act shall extend to or include any garden, ornamental ground, or other land belonging to Her Majesty in right of her crown or of her Duchy of Lancaster, or any garden, ornamental ground, or other land under the management of the Commissioners of Works or of the commissioners acting under the Crown Estate Paving Act, 1851, or to any garden, ornamental or other ground, for which special provision is made for the due care and protection thereof by any public or private Act of Parliament.

8. Nothing in this Act shall extend to Scotland or Ireland.

### METROPOLITAN OPEN SPACES ACT, 1877.

40 & 41 Vict. c. 35. An Act for affording Facilities for the enjoyment by the Public of Open Spaces in the Metropolis. [2nd August, 1877]

County council  
may acquire  
and hold open  
spaces for  
benefit of  
public.

1. The *Metropolitan Board of Works* (*l*) may, by purchase or voluntary sale, or by the gift of the person or persons legally entitled to dispose of the same, acquire or

(*i*) **Byelaws.**—Under the Pub. Hlth. Act, 1875 (38 & 39 Vict. c. 55), sec. 164, a local board made a byelaw that, under a penalty of five pounds, "a person shall not suffer any fowl, &c. belonging to him to enter or remain in" a certain pleasure ground vested in them. There was not a sufficient fence to keep fowls out. *Held*, that the byelaw was invalid, being repugnant to the law of England, and not warranted by the section. *Torquay Loc. Bd. v. Bridle*, 47 J. P. 183. See also, as to byelaws in relation to open spaces, *Met. Bd. Wks. Act, 1877*, and *London Council (Genl. Powers) Act, 1890, post*.

(*k*) **Met. Man. Act, 1855.**—*Ante*, vol. i. The remainder of the section applies only beyond the Metropolis.

(*l*) **Met. Bd. Wks.**—Now the London County Council. *Loc. Govt. Act, 1888*, sec. 40 (*8*),

accept the ownership of any open spaces, whether inclosed within rails or palings, or uninclosed, situated in the Metropolis, and hold the same in trust for the perpetual use thereof by the public for exercise and recreation, and may from time to time make byelaws for the regulation of such open spaces, and may by such byelaws provide for the removal of any person infringing any such byelaw by any officer of the said *board* (*m*) or police constable. Byelaws under this section shall be made in the same manner and subject to the same conditions as byelaws made by the said Board under the Metropolis Management Act, 1855 (*n*).

2. Where any open spaces now are or hereafter may be used as places of exercise and recreation for the inhabitants of certain houses, and the property and right of user is now or hereafter may be vested in one or more persons as owners or occupiers of such houses, such owners and occupiers (if any) may convey to the *Metropolitan Board of Works* (*m*), in trust for the public, the right to enter upon and use and enjoy such open spaces, subject to such terms and conditions as may be agreed upon.

3. The *Metropolitan Board of Works* (*m*) shall be entitled to make such provision as may be necessary for maintaining and protecting the open spaces so acquired by them.

4. The *Metropolitan Board of Works* (*m*) shall be empowered to pay out of the funds at their disposal or which they are empowered to raise under the said Metropolis Management Act, 1855, and the several Acts amending the same, the costs and charges which they may incur in the execution of this Act, and such costs and charges shall be deemed to be expenses for which provision is made by such Acts.

5. This Act shall not extend to the royal parks, nor to any land belonging to Her Majesty in right of her Crown or of her Duchy of Lancaster, or any garden, ornamental ground, or ornamental land for the time being under the management of the Commissioners for the time being of Her Majesty's Works and Public Buildings or of the commissioners for the time being acting under the Crown Estate Paving Act, 1851, or to any Metropolitan Common within the meaning of "The Metropolitan Commons Act, 1866," and "The Metropolitan Commons Amendment Act, 1869," nor to any land belonging to either of the honourable Societies of the Inner Temple and Middle Temple.

6. The term "Metropolis" in this Act means all parishes and places mentioned in schedules A., B., and C. to the said Metropolis Management Act, 1855.

7. The powers in this Act conferred on the *Metropolitan Board of Works* (*m*), shall in the City of London be exercised by the mayor, aldermen, and commons of the said City, who shall defray all the expenses caused by or connected with the execution of such powers.

8. This Act may be cited as the Metropolitan Open Spaces Act, 1877.

40 & 41 Vict.  
c. 35.

18 & 19 Vict.  
c. 120.

Right of entry  
to places of  
recreation may  
be conveyed to  
county  
council.

Provision for  
keeping up  
open spaces.

Expenses.

18 & 19 Vict.  
c. 120.

Extent of Act.

14 & 15 Vict.  
c. 95.

29 & 30 Vict.  
c. 122.

32 & 33 Vict.  
c. 107.

Meaning  
of term  
"Metropolis."  
In the City of  
London the  
powers of the  
Act to be  
executed by  
the corpora-  
tion.

Short title.

## METROPOLITAN OPEN SPACES ACT, 1881.

44 & 45 Vict. c. 34. An Act to amend the Metropolitan Open Spaces Act, 1877. [11th August, 1881]

[Preamble recites *Met. Open Spaces Act*, 1877.]

1. In this Act, unless the context otherwise requires—

"Open space" means any land (whether inclosed or uninclosed) which is

Interpretation  
clause.

*ante*, vol. i. All powers and duties conferred on the Met. Bd. Wks. by this Act may be exercised by any vestry or district board in scheds. A. and B. of the Met. Man. Act, 1855 *ante*, vol. i. Open Spaces Act, 1887, sec. 6, *post*.

(*m*) **Met. Bd. Wks.**—See note (*l*) on page 1090.

(*n*) **Byelaws.**—For further powers of the county council to make byelaws in relation to open spaces, see the Met. Bd. Wks. Act, 1877, and the London Council (Genl. Powers) Act, 1890, *post*. And see the Met. Man. Act, 1855, secs. 202 and 203, *ante*, vol. i., for provisions regulating the making of byelaws.



44 & 45 Vict.  
c. 34.

18 & 19 Vict.  
c. 120.

not built on (*o*), and which is laid out as a garden or is used for purposes of recreation, or lies waste and unoccupied; (*p*) . . .

"The Metropolis" means the Metropolis as defined by the Metropolis Management Act, 1855 (*q*);

"The Metropolitan Board" means the Metropolitan Board of Works (*r*), as constituted by the same Act;

"Vestry" means a vestry of one of the parishes specified in schedule A. of the same Act;

"District board" means a board of works of one of the districts specified in schedule B. of the same Act;

"The corporation" means the mayor and commonalty and citizens of the City of London, and the powers conferred upon them by this Act may be exercised by the mayor, aldermen, and commons of the said City in common council assembled;

The "owner" of a churchyard, cemetery, or burial ground means the person or persons, corporation sole, or body corporate in whom the soil and freehold of such churchyard, cemetery, or burial ground is vested, whether as appurtenant or incident to any benefice or cure of souls, or otherwise.

The term "burial ground" shall include any ground, whether consecrated or not, which has been at any time set apart for the purposes of interment (*s*) . . . (*p*)

Power to  
trustees to  
transfer certain  
open spaces to  
local authority.

2. Where any open space within the Metropolis is under the provisions of any private or local Act of Parliament placed under the care and management of trustees or other persons, with a view to the preservation and regulation of the same as a garden or open space, it shall be lawful for the said trustees or other the managing body thereof for the time being, in pursuance of any resolution duly passed as hereinafter mentioned, and with the consent, to be signified in manner hereinafter appearing, of the owners and occupiers of any houses fronting upon, or the owners or occupiers of which are liable to be specially rated for the maintenance of the open space, to convey, assign, or transfer for valuable or nominal consideration, or by way of gift, to the Metropolitan Board (*r*) or to the vestry or district board of the parish or district in which such open space or any part thereof is situate, the soil and freehold of, or other their entire interest in, or (where no interest in the soil of such open space is vested in them) the entire care and management of the said open space, to the end that the same may be preserved for the enjoyment of the public; and upon such conveyance, assignment, or transfer such trustees or other managing body shall be relieved and discharged from all trusts, powers, and duties imposed upon them by Act or other instrument under which they were constituted, or under which they then act or otherwise with reference to the said open space, but shall hold any purchase money paid for or in respect of the said open space in trust for the benefit of the persons or class of persons for whose benefit the said open space was previously preserved and managed by the said trustees (*t*), and such persons or class of persons shall be discharged from any special rate or other obligation previously imposed on them in respect of such open space.

(*o*) **Not built on.**—"Where a portion of an area of land not exceeding a twentieth part is covered with a building or buildings, such land may notwithstanding be deemed to be an open space within the meaning of the Open Spaces Acts, 1877 to 1890," Open Spaces Act, 1890, sec. 7, *post*.

(*p*) **Open space. Burial ground.**—The words omitted from the paragraphs defining these expressions are repealed by the Open Spaces Act, 1887, sec. 2, *post*.

(*q*) **The Metropolis** is defined by sec. 250 of the Met. Man. Act, 1855, *ante*, vol. i.

(*r*) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*.

(*s*) **Set apart for interment.**—The site of a church where intramural burial has taken place has not been "set apart for the purposes of interment" within the meaning of this section, and therefore when sold is not within the prohibition against building on a disused burial ground contained in the Burial Grounds Act, 1884, *post*. *Ecclesiastical Commissioners and New City of London Brewery Co.'s Contract, In re* (1895), 1 Ch. 702; 64 L. J. Ch. 646. See also *Ponsford and Newport Dist. School Bd., In re, post*, p. 1097.

(*t*) **The purchase money** may be held in trust either as in the above section mentioned or, as the case may be, for the benefit of the objects to which any rates previously imposed in respect of such open space had been applied. Open Spaces Act, 1887, sec. 2 (1), *post*.

It shall be lawful for any such trustees or managing body as aforesaid, in pursuance of any such resolution as aforesaid, and with such consent as aforesaid, for any valuable or nominal consideration, by way of rent or otherwise, or without any consideration, to grant or transfer to the *Metropolitan Board (u)*, or to any such vestry or district board as aforesaid, any term of years or other limited interest in or any right or easement over such open space, or to enter into any agreement with the *Metropolitan Board (u)* or any such vestry or district board as aforesaid for the opening to the public of such open space, and the care and management thereof by such board or vestry at all times or at any specified time or times, without the transfer to such board or vestry of any interest in the soil of such open space; and any such grant, demise, transfer, or agreement as aforesaid shall be deemed a good execution of the trusts, powers, and duties imposed upon the said trustees by the Act or other instrument under which they are constituted or act.

44 & 45 Vict.  
c. 34.

A resolution under this section shall be deemed to have been duly passed if at a meeting of the trustees or other the persons constituting such managing body as aforesaid, summoned by at least one month's notice in writing left at or sent by post to their last known or usual place of abode, such resolution shall have been passed by a majority of two thirds in number of the persons present at such meeting, and if such resolution shall also have been confirmed by two thirds in number of the persons present at a second like meeting, to be summoned by such notice as aforesaid, and to be held at an interval of not less than one calendar month from the first meeting.

The consent of such owners and occupiers of houses as aforesaid shall be held to have been given and signified if, at a meeting of such persons summoned by at least one month's notice in writing given as hereinafter directed, a resolution shall have been passed by a majority of at least two thirds in number of the persons present at such meeting consenting to the conveyance, grant, or transfer of the said open space as aforesaid, or to such an agreement with the *Metropolitan Board (u)*, vestry, or district board as aforesaid; and if such resolution shall also have been confirmed by two thirds in number of such owners and occupiers present at a second like meeting, to be summoned in like manner to the first meeting, and to be held at an interval of not less than one calendar month from the first meeting.

Notice of such meeting shall be given by leaving the same or sending the same through the post to every house fronting upon, or the owner or occupier of which is liable to be specially rated for the maintenance of, the said open space, and by inserting the same as an advertisement at least three times in any two or more London daily papers, and such notice shall state generally the object of the said meeting, and no such meeting shall be held between the first day of August in one year and the thirty-first day of January in the following year.

For the purposes of this section the owner of a house shall include any person entitled to any term of years therein; and the occupier of a house shall be the person rated to the relief of the poor in respect of the said house.

If at any meeting of such trustees or managing body, or at any meeting of such owners or occupiers as before mentioned, the resolution proposed at any such meeting be not carried, no meeting shall be called or held with the same object in respect to the same garden or open space until the expiration of three years from the day on which such resolution so proposed was rejected at any such meeting as above mentioned.

A conveyance, assignment, demise, grant, or agreement under this section shall be made by an instrument under the common seal of the trustees or other managing body if such body be a corporation, and if it be not a corporation under the hands and seals of any five members of such body, or of all the members thereof if for the time being they be less than five in number.

The trustees or other the managing body of any such open space as aforesaid may (anything contained in the Act or other instrument under which they are constituted or act to the contrary notwithstanding), in pursuance of any such resolution as aforesaid, and with such consent as aforesaid, signified as aforesaid, admit persons not owning, occupying, or residing in any house fronting on the said open space to the enjoyment of the said open space at all times, or at any specified time or times, and may regulate the admission of such persons thereto on such terms and conditions in all respects as the trustees may think proper.

(u) *Met. Bd. Wks.*—See note (r) on page 1092.

44 & 45 Vict.  
c. 34.

26 Vict. c. 13.

Power to  
transfer other  
open space to  
local authority.

Any trustees so acting as aforesaid shall have the same power of making byelaws as that conferred by the fourth section of the Town Gardens Protection Act, 1863.

Where the freehold of any such open space as is referred to in this section, and the freehold of all or of the major part of the houses round such open space are vested in the same person or persons, the powers conferred by this section shall not be exercised without the consent of such person or persons.

3. The owner of any open space within the Metropolis which is subject to rights of user for exercise and recreation (secured by covenant or otherwise) in the owners and occupiers (or either of such classes) of any houses round or near the same may, with the consent (to be signified in manner hereinafter appearing) of such owners and occupiers of houses, convey to the *Metropolitan Board* (x), or to the vestry or district board of the parish or district in which such open space or any part thereof is situate, the soil of the said open space in trust for the enjoyment of the public; and the owner or any person or persons in whom any term of years or other limited interest in such open space is vested may, with the like consent, grant or transfer to the *Metropolitan Board* (x) or such vestry or district board as aforesaid, in trust as aforesaid, any term of years or other limited interest in or any right or easement over such open space, or enter into any agreement with the *Metropolitan Board* (x) or any such vestry or district board as aforesaid for the opening to the public of such open space, and the care and management thereof by such board or vestry either at all times or at any specified time or times without the transfer to such board or vestry of any interest in the soil of such open space.

The consent of such owners and occupiers of houses as aforesaid shall be held to have been given and signified if at a meeting of such persons summoned by at least one month's notice in writing (given as hereinafter directed) a resolution shall have been passed by a majority of at least two thirds in number of the persons present at such meeting consenting to the conveyance, grant, or transfer of the said open space as aforesaid, or to such an agreement with the *Metropolitan Board* (x), vestry, or district board as aforesaid, and the owner shall be thereupon discharged from any liability to any person entitled to such right of user as aforesaid in respect of any act done in accordance with such resolution.

Notice of such meeting shall be given by leaving the same or sending the same through the post to every house, the owner or occupier of which is entitled to any right of user, and by inserting the same as an advertisement at least three times in any two or more London daily papers, and such notice shall state generally the object of the said meeting; and no such meeting shall be held between the first day of August in one year and the thirty-first day of January in the following year.

For the purposes of this section the owner of an open space shall be any person or persons in whom the soil of the open space is vested for an estate in possession during his or their life or lives or for any larger estate; the owner of a house shall include any person entitled to any term of years therein; and the occupier of a house shall be the person rated to the relief of the poor in respect of the said house.

Power to  
transfer dis-  
used burial  
grounds to  
local authority.

4. The owner of any churchyard, cemetery, or burial ground situate within the Metropolis, and closed for burials either under an order of Her Majesty the Queen in Council, or otherwise, may convey the soil of such churchyard, cemetery, or burial ground, or grant any term of years or other limited interest therein to or enter into any agreement with the *Metropolitan Board* (x) or the vestry or district board of the parish or district in which such churchyard, cemetery, or burial ground, or any part thereof, is situate for the purpose of giving the public access to the said churchyard, cemetery, or burial ground, and preserving the same as an open space accessible to the public, and under the control of such board or vestry, and for the purpose of improving and laying out the same.

Powers and  
duties of  
local authority.

5. The *Metropolitan Board* (x) and the vestry or district board of the parish or district within which any open space, churchyard, cemetery, or burial ground, or any part thereof, is situate may, by agreement, and for valuable or nominal consideration by way of payment in gross or of rent, or otherwise, or without any consideration, take and hold the soil and freehold of, or any term of years

(x) *Met. Bd. Wks.*—Now the London County Council. *Loc. Govt. Act, 1888*, sec. 40 (8), *ante*, vol. i.



or other limited estate or interest in, or any right or easement in or over any open space, churchyard, cemetery, or burial ground, and may, with reference to any open space, churchyard, cemetery, or burial ground, undertake the entire or partial care, management, and control thereof, whether any interest in the soil is transferred to the board or vestry or not, and may for the purposes aforesaid enter into any agreement with the persons authorised by this Act to agree with reference to any open space, churchyard, cemetery, or burial ground or with any other persons interested therein.

Any estate or interest in or control over any open space, churchyard, cemetery, or burial ground acquired by the *Metropolitan Board* (y), or any vestry or district board under the provisions of this Act, shall be held and administered by such board or vestry in trust to allow, and with a view to, the enjoyment by the public of such open space, churchyard, cemetery, or burial ground in an open condition, free from buildings (z) and under proper control and regulation, and for no other purpose (a) . . . ; and the board or vestry shall maintain and keep the same in a good and decent state, and may inclose or keep the same inclosed with proper railings and gates, and may drain, level, lay out, turf, plant, ornament, light, seat, and otherwise improve the same, and do all such works and things, and employ such officers and servants, as may be requisite for the purposes aforesaid, or any of them.

Provided that no board or vestry shall exercise any of the powers of management in this Act mentioned with reference to any consecrated ground, unless and until they are authorised so to do by the licence or faculty in that behalf of the bishop of the diocese in which such consecrated ground is situate, which licence or faculty may be granted by such bishop upon the application of the board or vestry (b), and may extend to the removal of any tombstone or monument (c), under such conditions and subject to such restrictions as to the bishop may seem fit.

6. The *Metropolitan Board* (y) and any vestry or district board may, with reference to any open space, churchyard, cemetery, or burial ground in or over which it has acquired any estate, interest, or control under the provisions of this Act, make byelaws for the regulation thereof, and of the days and times of admission thereto, and the preservation of order and prevention of nuisances therein, and may by such byelaws impose penalties for the infringement thereof, and provide for the removal of any person infringing any such byelaw by any officer of the board or vestry or police constable.

44 & 45 Vict.  
c. 34.

Byelaws.

(y) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(z) **Free from buildings.**—“It shall be lawful for any vestry or district board acting under the Met. Man. Act, 1855, and the Acts amending the same, to erect and maintain on any of the open spaces belonging to or under the control of such vestry or district board buildings for the accommodation of keepers, constables, and other persons employed by them in connection with the maintenance and management of such open spaces, and also such other convenient and ornamental buildings and such appliances as they may think requisite for the purpose of exercise and recreation, and for refreshment rooms, band stands, conveniences, and other like purposes. Provided that the consent of the county council under their common seal to the erection thereof be first obtained, and the expenses so incurred by them shall be deemed to be expenses incurred by them under and for the purposes of the said Acts, and may be defrayed accordingly.” London Open Spaces Act, 1893 (56 & 57 Vict. ch. lxxi.), sec. 25. See *Att.-Genl. v. Sunderland Corporation*, 2 Ch. D. 634; 45 L. J. Ch. 839.

The London Coun. Council. (Genl. Powers) Act, 1895, sec. 45, *post*, authorises the County Council to erect gymnasia for the use of children in any parks or open spaces under their management, and many of the special Acts vesting parks and open spaces in the County Council, vestries, and district boards authorise the erection of buildings for certain therein specified purposes.

(a) **For no other purpose.**—See *Att.-Genl. v. Southampton (Mayor, &c., of)*. 1 Giff. 363; 29 L. J. Ch. 282. The words omitted are repealed by the Open Spaces Act, 1887, sec. 2, *post*.

(b) **Licence or faculty.**—For instances in which faculties have been granted, authorising the conversion of burial grounds into public gardens, see *St. George's-in-the-East, In re*, 1 P. D. 311; *Mount Street, Hanover Sq. Burial Ground*, 4 T. L. R. 661; *St. George-the-Martyr, Queen's Sq., ib.* 703; *The Camden Town Burial Ground*, 5 T. L. R. 311.

(c) **Removal of tombstones, &c.**—As to steps to be taken before the removal of any tombstone or monument, see the Open Spaces Act, 1887, sec. 3, *post*.

44 & 45 Vict.  
c. 34.

Byelaws made under this Act shall be made in the same manner and subject to the same conditions as byelaws made by the Metropolitan Board or by a vestry or district board, as the case may be, under the Metropolis Management Act, 1855 (*d*).

County Council  
and vestry or  
district board  
may carry out  
Act jointly.

7. The *Metropolitan Board* (*e*) or any vestry or district board, and where an open space extends into two or more parishes or districts two or more vestries or district boards, either with or without the *Metropolitan Board* (*e*), may jointly carry out the provisions of this Act, and may enter into any agreement, on such terms as may be arranged between them, for so doing and for defraying the expenses of the execution of the Act, and the *Metropolitan Board* (*e*) may defray the whole or any part of the expenses of the execution of this Act by any vestry or district board, and any vestry or district board may similarly defray the whole or any part of the expenses of the *Metropolitan Board* (*e*) or, where an open space extends into two or more parishes or districts, of any other vestry or district board.

Provision for  
extra-parochial  
places.

8. Where any open space, churchyard, cemetery, or burial ground, by virtue of any Act of Parliament or otherwise, is extra-parochial, or forms part of some parish other than that which surrounds the same, the vestry or district board acting for the parish surrounding the same may carry out, or may enter into agreement with any one or more vestries or district boards acting for any other parishes, on such terms as may be arranged between them, and may jointly carry out, the provisions of this Act, and shall have the same powers in every respect as if such open space, churchyard, cemetery, or burial ground were part of the parish or district of such vestry or district board.

Provision for  
compensation.

9. No estate, interest, or right of a profitable or beneficial nature in, over, or affecting an open space, churchyard, cemetery, or burial ground shall, except with the consent of the body or person entitled thereto, be taken away or injuriously affected by anything done under this Act without compensation being made for the same; and such compensation shall be paid by the *Metropolitan Board* (*e*), vestry, or district board by which such estate, interest, or right is taken away or injuriously affected, and shall, in case of difference, be ascertained and provided in the same manner as if the same compensation were for the compulsory purchase and taking or the injurious affecting of lands under the provisions of the Lands Clauses Consolidation Act, 1845, and any Acts amending the same (*f*).

8 & 9 Vict. c. 18.

Expenses.

10. All expenses incurred under this Act by the *Metropolitan Board* (*e*) or by any vestry or district board shall be defrayed out of the funds at their disposal respectively, or which they respectively are empowered to raise under the Metropolis Management Act, 1855, and the several Acts amending the same; and such expenses shall be deemed to be expenses for which provision is made by such Acts.

Extent of Act.

11. This Act shall extend only to the Metropolis (*g*), and shall not extend to the royal parks or to any land belonging to Her Majesty in right of her Crown or of her Duchy of Lancaster, or to any garden, ornamental ground, or ornamental land for the time being under the management of the Commissioners for the time being of Her Majesty's Works and Public Buildings or of the commissioners for the time being acting under the Crown Estate Paving Act, 1851, or to any metropolitan common within the meaning of the Metropolitan Commons Act, 1866, and the Metropolitan Commons Amendment Act, 1869.

14 & 15 Vict.  
c. 95.

29 & 30 Vict.  
c. 122.

32 & 33 Vict.  
c. 107.

Application in  
City of London.

12. The powers in this Act conferred on and in relation to the *Metropolitan Board* (*e*), vestries, and district boards shall in the City of London be exercised by and have relation to the corporation, who shall defray, out of the metage of grain duty or otherwise, all the expenses caused by or connected with the execution of such powers by them; and any byelaws made by the corporation

(*d*) **Byelaws.**—See the Met. Man. Act, 1855, secs. 202 and 203, *ante*, vol. i.; and also the Met. Bd. of Wks. Act, 1877, and the Lond. Counc. (Genl. Powers) Act, 1890, *post*.

(*e*) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(*f*) **Lands Clauses Acts.**—As to these Acts, the subject of which is beyond the scope of this work, see Cripps and other treatises on the "Law of Compensation."

(*g*) **Extent of Act.**—The material provisions of this Act are extended to urban and certain rural districts by the Open Spaces Act, 1887, sec. 5, *post*.

for the regulation of any open space acquired under the powers of this Act shall be made and allowed in manner prescribed by the Corporation of London (Open Spaces) Act, 1878. 44 & 45 Vict. c. 34.

13. This Act may be cited as the Metropolitan Open Spaces Act, 1881; and this Act and the Metropolitan Open Spaces Act, 1877, may together be cited as the Metropolitan Open Spaces Acts, 1877 and 1881. 41 & 42 Vict. ch. cxxvii. Short title.

### DISUSED BURIAL GROUNDS ACT, 1884 (*h*).

47 & 48 Vict. c. 72. An Act for preventing the erection of Buildings on Disused Burial Grounds. [14th August, 1884]

[*Preamble recites the Burial Acts, 1852 & 1853 (15 & 16 Vict. c. 85 and 16 & 17 Vict. c. 134).*]

1. This Act may be cited as the Disused Burial Grounds Act, 1884.

Short title.

2. In this Act a "disused burial ground" shall mean a burial ground (*i*) in respect of which an order in council has been made for the discontinuance of burials therein in pursuance of the provisions of the said recited Acts (*k*). Interpretation clause.

3. After the passing of this Act (*l*) it shall not be lawful to erect any buildings (*m*) upon any disused burial ground (*i*), except for the purpose of enlarging a church, chapel, meeting-house, or other places of worship. No buildings to be erected upon disused burial grounds, except for enlargement, &c.

(*h*) **Enforcement of Act.**—The Metropolitan Bd. Wks. (Various Powers) Act, 1885 (48 & 49 Vict. ch. clxvii.), sec. 56, enacts: "The board shall be and they are hereby constituted the authority for preventing the violation and for enforcing the due observance of the provisions of the Disused Burial Grounds Act, 1884, within the Metropolis, and they may from time to time institute and prosecute all such legal proceedings, and do all such acts, matters and things as may in the opinion of the board be necessary or expedient for preventing the violation by any person, and for enforcing the due observance by all persons, of the provisions of the said Act within the Metropolis." The powers and duties of the board were transferred to the London County Council by the Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(*i*) **Disused burial ground. Burial ground.**—See further, as to the meaning of these expressions, the Open Spaces Act, 1881, sec. 1, *ante*, and the Open Spaces Act, 1887, sec. 4, *post*.

The unused portion of a "disused burial ground" which has been set apart for interments comes within the Act, and cannot be built upon. *Pensford and Newport Dist. School Bd., In re* (1894), 1 Ch. 454; 63 L. J. Ch. 278.

(*k*) **Said recited Acts.**—The Burial Act, 1852, sec. 2, empowers Her Majesty in Council, upon a representation of the Secretary of State, to order that, after a time mentioned in the order, burials in any part or parts of the Metropolis, or in any burial grounds or places of burial, shall be discontinued wholly or subject to any exceptions or qualifications mentioned in the order. By sec. 3 any such order is not to extend to burial grounds of Quakers and Jews, unless expressly included. The Burial Act, 1853, empowers Her Majesty in Council, upon the representation of the Secretary of State, to restrain the opening of new burial grounds, and to order the discontinuance of burials in specified places.

(*l*) **After the passing of this Act.**—As to contracts for the sale of any burial ground entered into before the passing of the Act, see *Balesworth v. Davis*, 3 T. L. R. 214.

(*m*) **Buildings.**—The expression "building" includes any temporary or movable building. Open Spaces Act, 1887, sec. 4, *post*. An injunction was granted to restrain a vestry, in whom a burial ground was vested for the purposes of a public garden, from erecting any stand, building, or other erection to be used for the purpose of a band stand or any similar purpose. *Att.-Genl. v. St. Pancras Vestry*, 58 J. P. 22; 69 L. T. N. S. 627.

At the time of the publication of this work the London County Council (General Powers) Bill, 1897, had already passed the House of Commons, providing, by clause 47, that "It shall be lawful for the Council, and for the vestries and district boards in the county of London (including the Woolwich local board), with the consent of the Council, to erect and maintain upon any disused burial ground in the county of London, of which they respectively now have or hereafter may have, the management or control, any tool or potting sheds or similar structures."



47 & 48 Vict.  
c. 72.

Saving for  
buildings  
already  
sanctioned.  
Saving of  
burial grounds  
sold by Act of  
Parliament.

4. Nothing in this Act shall prevent the erection of any building on a disused burial ground for which a faculty has been obtained before the passing of this Act.

5. Nothing in this Act contained shall apply to any burial ground which has been sold or disposed of under the authority of any Act of Parliament (*n*).

### OPEN SPACES ACT, 1887.

**50 & 51 Vict. c. 32.** An Act for extending certain Provisions of the Metropolitan Open Spaces Acts, 1877 and 1881, with Amendments, to Sanitary Districts throughout England, Wales, and Ireland; and for other purposes. [23rd August, 1887]

[*Preamble recites Met. Open Spaces Acts, 1877 and 1881, and Disused Burial Grounds Act, 1884.*]

Interpretation.

38 & 39 Vict.  
c. 55.

1. In this Act, unless the context otherwise requires, the expression "urban sanitary district" and the expression "urban authority" respectively, and the expressions "rural sanitary district" and "rural authority" respectively shall have the meanings assigned to them respectively by the Public Health Act, 1875.

Amendment of  
44 & 45 Vict.  
c. 34.

2.—(1) The Metropolitan Open Spaces Act, 1881, is hereby repealed to the extent mentioned in the schedule to this Act, and the second section of the said Act is hereby amended as follows (that is to say), the purchase money paid for or in respect of the purchase of any open space as therein mentioned shall be held in trust, either as in the said section mentioned, or, as the case may be, for the benefit of the objects to which any rates previously imposed in respect of such open space had been applied.

(2) The playing of any games or sports shall not be allowed in any churchyard, cemetery, or burial ground in or over which any estate, interest, or control is acquired under section five of the Metropolitan Open Spaces Act, 1881.

Provided that—

(a) In the case of consecrated ground, the bishop, by any licence or faculty granted under the Metropolitan Open Spaces Act or this Act, and

(b) In the case of any churchyard, cemetery, or burial ground which is not consecrated, the body from which any such estate, interest, or control as aforesaid is acquired

may expressly sanction any such use of the ground, and may specify any conditions as to the extent or manner of such use.

(*n*) **Under authority of Act of Parliament.**—It was held by Bacon, V. C., that this section does not apply to a sale of land executed after the passing of the Act under the authority of an Act passed prior thereto. *St. Saviour's Rectory, Trustees of, and Ogley*, 31 Ch. D. 412; 55 L. J. Ch. 269. But North, J., subsequently held that the section does apply to dispositions made after the Act. *Ecclesiastical Commissioners and New City of London Brewery Co.'s Contract, In re, ante*, p. 1092. And this latter decision was followed by Stirling, J., who held that where surplus land acquired by a local authority for street improvements under the Metropolitan Paving Act, 1817 (*ante*, vol. i.), was resold under the powers of that Act, such surplus land had been sold "under the authority of an Act of Parliament" within the meaning of the above section, and might therefore be built upon. *Att.-Genl. v. Trustees of the London Parochial Charities* (1896), 1 Ch. 541; 65 L. J. Ch. 242.

The Consistory Court of London granted a faculty allowing the corporation to construct an underground chamber for the transformation of electricity under a disused burial ground, vested in them under two local Acts (1 & 2 Vict. ch. c. and 5 & 6 Vict. ch. ci.), to "remain unbuilt upon and unappropriated to any purpose except such ornamental purposes as the corporation with the consent of the Bishop of London might direct." *St. Nicholas Cole Abbey, In re; St. Benet Fink Churchyard, In re* (1893), P. 58.

3. In the case of any disused churchyard, cemetery, or burial ground, at least three months before any tombstone or monument is moved, the following steps shall be taken :

50 & 51 Vict.  
c. 32.

Provision as to  
removal of  
tombstones and  
monuments.

- (a) A statement shall be prepared sufficiently describing by the name and date appearing thereon the tombstones and monuments standing or being in the ground, and such other particulars as may be necessary ;
- (b) Such statements shall be deposited with the clerk of the board or vestry, and shall be open to inspection by all persons ;
- (c) An advertisement of the intention to remove or change the position of such tombstones and monuments shall be inserted three times at least in some newspaper circulating in the neighbourhood of the burial ground, and such advertisement shall give notice of the deposit of such statement as is hereinbefore described, and of the hours within which the same may be inspected ;
- (d) A notice in terms similar to the advertisement shall be placed on the door of the church (if any) to which such churchyard, cemetery, or burial ground is attached, and shall be delivered or sent by post to any person known or believed by the board or vestry to be a near relative of any person whose death is recorded on any such tombstone or monument.

In the case of any consecrated ground no application for a faculty shall be made until the expiration of one month at least after the appearance of the last of such advertisements as aforesaid.

Provided that on any application for a faculty, nothing shall prevent the bishop from directing or sanctioning the removal of any tombstone or monument if he is of opinion that reasonable steps have been taken to bring the intention to effect such removal to the notice of some person having a family interest in such removal.

4. In the Disused Burial Grounds Act, 1884, and this Act, the expression "burial ground" shall have the same meaning as in the Metropolitan Open Spaces Act, 1881, as amended by this Act, and the expression "disused burial ground" shall mean any burial ground which is no longer used for interments, whether or not such ground shall have been partially or wholly closed for burials under the provisions of any statute or order in council, and the expression "building" shall include any temporary or movable building.

Amendment of  
47 & 48 Vict.  
c. 72.

5. [*Extension of certain provisions of Metropolitan Open Spaces Acts to urban and certain rural sanitary districts.*]

6. All powers and duties conferred upon the *Metropolitan Board* (o) by the Metropolitan Open Spaces Act, 1877, may, after the passing of this Act, be exercised and performed by any vestry or district board of works for the parishes and districts specified in schedules A. and B. of the Metropolis Management Act, 1855, as amended by subsequent Acts.

Extension of  
40 & 41 Vict.  
c. 35 to  
vestries and  
district boards.

7. Any corporation other than municipal corporations or body of persons having power, either with or without the consent of any other corporation or body of persons, to sell land belonging to such corporation or body may, but with the like consent (if any), convey, for valuable or nominal consideration or by way of gift, to any urban or rural authority such land, or any part thereof, for the purpose of the same being preserved as an open space for the enjoyment of the public, and may so convey the same with or without conditions, and the urban or rural authority may accept such open space, and, if conditions are imposed, subject to such conditions, and such open space shall be deemed to be an open space within the meaning of the principal Acts and this Act.

Power of  
corporation to  
make free gift  
of land for  
open space.

Where a corporation having power under this section to convey land are themselves the urban or rural authority, this section shall enable such authority to appropriate their land for an open space, and shall, with the necessary modifications, apply to such appropriation in like manner as it applies to the conveyance.

8. [*Expenses of urban and rural authorities.*]

9. This Act shall not extend to any land belonging to Her Majesty in right of her Crown or of her Duchy of Lancaster, or to any garden or ornamental ground for the time being under the management of the Commissioners for the time being of Her Majesty's Works and Public Buildings.

Saving for  
Crown lands.

(o) **Metropolitan Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

50 & 51 Vict.  
c. 32.

Power over  
open spaces  
already vested  
in sanitary  
authority.

Power of  
County Council  
with respect to  
public walks  
or pleasure  
grounds.  
Short title and  
construction.

10. [*Byelaws of urban and rural authorities.*]

11. The *Metropolitan Board* (*p*) or the sanitary authority may exercise all the powers given to them by the Metropolitan Open Spaces Act, 1881, or this Act respecting open spaces, churchyards, cemeteries, and burial grounds transferred to them in pursuance of the said Act or of this Act in respect of any open spaces, churchyards, cemeteries, and burial grounds of a similar nature which are or shall be vested in them in pursuance of any other statute, or of which they are otherwise the owners.

12. The *Metropolitan Board* (*p*) may purchase or take on lease, lay out, plant, improve, and maintain lands for the purpose of being used as public walks or pleasure grounds, and may support or contribute to the support of public walks or pleasure grounds provided by any person whomsoever.

13. [*Extension of Acts to Ireland.*]

14. This Act may be cited as the Open Spaces Act, 1887, and may be read with the principal Acts as one Act.

SCHEDULE.

Portions of the Metropolitan Open Spaces Act, 1881, repealed.

In section one, the following words occurring in the definition of an "open space," viz., "but shall not include any enclosed land which has not a public road or footpath completely round the same."

In the same section, the following words occurring in the definition of a "burial ground," viz., "and in which interments have taken place since the year 1800."

In the second paragraph of section five, the words, "but such metropolitan board, vestry, or district board shall not allow the playing of any games or sports therein."

OPEN SPACES ACT, 1890.

53 & 54 Vict. c. 15. An Act to amend the Open Spaces Acts.

[25th July, 1890]

Short title and  
construction.

40 & 41 Vict.  
c. 35.

44 & 45 Vict.  
c. 34.

50 & 51 Vict.  
c. 32.

Definitions.

Transfer to  
local authority  
of spaces held  
by trustees for  
purposes of  
public  
recreation.

1. This Act may be cited as the Open Spaces Act, 1890, and may be read with the Metropolitan Open Spaces Acts, 1877 and 1881, and the Open Spaces Act, 1887 (hereinafter called the principal Acts), as one Act, and this Act and the principal Acts may be cited as the Open Spaces Acts, 1877 to 1890.

2. In this Act—

The expression "local authority" shall mean and include any of the public bodies who are empowered by the principal Acts to hold open spaces for the purposes of the Open Spaces Acts, 1877 to 1890:

"The court" shall mean the Chancery Division of the High Court of Justice in England and Ireland, and the county court of the district in which the whole or part of any open space may be situated as herein provided.

3. The trustees of land held upon trust for the purposes of public recreation may, in pursuance of a resolution duly passed as provided by section two of the Metropolitan Open Spaces Act, 1881, transfer by free gift, absolutely or for a limited term, to the local authority of the district in which the whole or the greater part in area of the land is situate, the land so held by them, if such authority is willing to accept such transfer, to be held by the transferees on the trusts and subject to the conditions on which the transferors held the same, or upon such other trusts and subject to such other conditions (so that the land be appropriated to the purposes of public recreation) as may be agreed upon between the transferors and transferees with the approval of the Charity Commissioners for England and Wales, or, as respects Ireland, of the Commissioners of Charitable Donations and Bequests for Ireland. Subject to the

(*p*) **Metropolitan Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.



obligation of the land so transferred being used for the purposes of public recreation as aforesaid, the local authority may hold the same as and for the purposes of an open space under the Open Spaces Acts, 1877 to 1890. This section shall not apply to any trustees elected or appointed under any local or special Act of Parliament.

53 & 54 Vict.  
c. 15.

4. When any open space shall be situate wholly or in part within the district of a local authority, and shall be vested in trustees other than such trustees as are mentioned in the principal Acts, or in the last preceding section of this Act, for any charitable purpose, and as part of their trust estate, and it shall appear to the majority of such trustees that such open space is no longer required for the purposes of their trust, or that the same may with advantage to the trust be dealt with under the provisions of this section, it shall be lawful for such trustees, in pursuance of a resolution passed by them in the manner prescribed in the last preceding section of this Act, and where the open space is subject to the provisions of the Charitable Trusts Acts, 1883 to 1887 (*g*), with such authority or approval as is required by those Acts for a sale of the open space (*r*), and in other cases in pursuance of an order of the court to be obtained as herein-after provided, to convey or demise such open space to such local authority upon such terms as shall be mutually agreed between them, and the local authority shall thenceforth be entitled to hold the same as an open space upon the terms and under the conditions specified in any such conveyance or demise, or upon such terms and under such conditions as may be so authorised or approved, or as the court shall from time to time order, as the case may be.

Similar power with respect to trustees of other open spaces.

5. An order of the court may be made upon application by the trustees, and the court, before making any order, may direct such inquiries to be made, such consents to be obtained, and notice to be given to such persons as to the court shall seem expedient, and may make such order thereon as in its discretion appears proper. Rules for carrying out the preceding provisions of this Act may from time to time be made by the same authority as the general rules or orders of the High Court of Justice in England and Ireland, and of the county courts in England, Ireland, and Wales respectively are made.

Procedure for obtaining order of court.

6. The Open Spaces Acts, 1877 to 1890, shall be applicable to the whole of any open space which is wholly or partly situated without the district of a local authority in the same manner to all intents and purposes as if the whole of such open space had been situated within such district.

Open Spaces Acts to apply outside district of local authority.

7. Where a portion of an area of land not exceeding a twentieth part is covered with a building or buildings, such land may notwithstanding be deemed to be an open space (*s*) within the meaning of the Open Spaces Acts, 1877 to 1890.

Buildings on open spaces.

## LONDON COUNTY COUNCIL (GENERAL POWERS) ACT, 1895.

[58 & 59 Vict. ch. cxxvii.]

\* \* \* \* \*

45. In addition to any other powers of the council with respect to management of parks and open spaces, it shall be lawful for the council to provide and let on hire boats on any water in any of such parks or open spaces, and to erect on such parts of such parks and open spaces as they may think fit gymnasias for the use of children, and to enclose the same:

Further provisions as to management of parks.

Provided that nothing in this section contained shall be deemed to authorise the council to provide boats on any river, stream, pond, or other waterwork belonging to or forming part of the water undertaking of the governor and company of the New River, brought from Chadwell and Anwell to London,

(*g*) **Charitable Trusts Acts.**—"1883" is evidently a misprint for "1853." The Acts now are the Charitable Trusts Acts, 1853 to 1887 (16 & 17 Vict. c. 137; 18 & 19 Vict. c. 124; 23 & 24 Vict. c. 136; 50 & 51 Vict. c. 49; 54 & 55 Vict. c. 17; 57 & 58 Vict. c. 35). See the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(*r*) **Such authority or approval as required.**—This appears to be the authority or approval of the Charity Commissioners under the Charitable Trusts Act, 1853 (16 & 17 Vict. c. 137), sec. 24.

(*s*) **Open space** is defined by the Met. Open Spaces Act, 1881, sec. 1, *ante*.



58 & 59 Vict.  
ch. cxxvii.

without the consent in writing of the said governor and company, and under and hereby assigned to them, unless there be something in the subject or context repugnant to such constructions :

\* \* \* \* \*

## THE METROPOLITAN BOARD OF WORKS ACT, 1877.

[40 Vict. ch. viii.]

[Preamble.]

Interpretation  
of terms.

1. [Short title: "*The Metropolitan Board of Works Act, 1877.*"]

2. In this Act the following words and expressions have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such constructions :

\* \* \* \* \*

The expression "*the Board*" means the *Metropolitan Board of Works* (t) :

\* \* \* \* \*

The expression "*the parks*" means and includes the several parks, gardens, heaths, commons, embankments, and open spaces in respect whereof bye-laws are by or under the several Acts mentioned in the schedule to this Act authorised to be made by the board.

General power  
of board (t) as  
to bye-laws.

3. The board (t) may, subject to the provisions of this Act, from time to time make bye-laws (u) as regards "*the parks*" for all or any of the following purposes ; that is to say—

- (1) Their government, control, and management, and the preservation of order and good conduct among persons frequenting them :
- (2) The exclusion and removal therefrom of gipsies, hawkers, beggars, rogues, and vagabonds :
- (3) The protection of "*the parks*," and of the walls, railings, fences, lamp-posts, trees, shrubs, plants, flowers, walks, seats, and other things therein :
- (4) The prevention of nuisances, annoyances, obstructions, and encroachments :
- (5) The prevention of the deposit of road sand, rubbish, or other matter :
- (6) The prevention of the illegal taking, cutting, or digging the turf, sods, gravel, clay, sand, gorse, heather, plants, shrubs, trees, and the like :
- (7) The prevention of the posting of bills or placards, and the writing, stamping, cutting, printing, drawing, or marking in any manner of any word or character, or of any representation of any object, on any wall, railing, fence, tree, lamp-post, walk, pavement, or seat, or elsewhere in the parks :
- (8) The prevention of bird catching, bird trapping, and the robbing of birds' eggs or nests :
- (9) Generally the prevention and restraint of acts or things tending to the injury and disfigurement of "*the parks*," or to interference with the use thereof by the public for purposes of exercise and recreation.

Special bye-laws  
as to heaths  
and commons.

4. And as regards any heath or common referred to in this Act the board (t) may, in addition to the several matters mentioned in the immediately preceding section, from time to time, subject to the provisions of this Act, make bye-laws for the following or any of the following purposes ; that is to say—

The prevention of shooting or chasing of game (x) or other animals thereon :

The regulation of assemblages of persons thereon (y), and of sports and games played there :

(t) *Met. Bd. Wks.* — Now the London County Council. *Loc. Govt. Act, 1888*, sec. 40 (8), *ante*, vol. i.

(u) *Byelaws.* — For general principles as to the making, effect, and validity of bye-laws, see note to *Mun. Corp. Act, 1882*, sec. 23, *ante*, vol. i.

(x) *Chasing game, &c.* — A byelaw relating to a common provided that "no person shall shoot or chase game or other birds or animals on the common." A person let off a tame pigeon and a falcon, and ran after them for half a mile over the common. *Held*, that this was an offence against the byelaw. *Harper v. Mitchell*, 44 J. P. 378.

(y) *Regulation of assemblages.* — The *Met. Bd. Wks.* made a byelaw prohibiting the delivery of any public speech, lecture, sermon, or address of any kind upon a certain common acquired by them, except with the written permission of the Board, and upon

The regulation of the use of animals and carriages let out for hire thereon, and of the drivers of carriages, and of persons letting out for hire or using animals or carriages thereon: 40 Vict.ch.viii.

The prevention of vehicles being driven or horses being exercised by grooms and others on any part of such heath or common not set apart by the board (z) for the purpose.

5—11. [*Regulations respecting byelaws. Allowance by Secretary of State. Prohibition of drill. Arrest of transient offenders. Byelaws under this Act to supersede those already made. Penalties to be paid to board. Superseded and practically re-enacted by the Lond. Coun. Council. (Gen. Powers) Act, 1896, secs. 15 to 19, post.*] 1890

The SCHEDULE to which the foregoing Act refers.

| Title or short title of Act.                                                                                 | Session and Chapter.      |
|--------------------------------------------------------------------------------------------------------------|---------------------------|
| The Finsbury Park Act, 1857.....                                                                             | 20 & 21 Vict. ch. cl.     |
| The Thames Embankment (South Side) Act, 1863...                                                              | 26 & 27 Vict. ch. lxxv.   |
| The Southwark Park Act, 1864.....                                                                            | 27 Vict. ch. iv.          |
| The Hampstead Heath Act, 1871.....                                                                           | 34 & 35 Vict. ch. lxxvii. |
| The Metropolitan Commons Supplemental Act, 1871 (relating to Blackheath).....                                | 34 & 35 Vict. ch. lvii.   |
| The Metropolitan Commons Second Supplemental Act, 1871 (relating to Shepherd's Bush Common).....             | 34 & 35 Vict. ch. lxiii.  |
| The Metropolitan Commons Supplemental Act, 1872 (relating to Hackney Common).....                            | 35 & 36 Vict. ch. xliii.  |
| The Thames Embankment (North) Act, 1872.....                                                                 | 35 & 36 Vict. ch. lxvi.   |
| The Thames Embankment (South) Act, 1873.....                                                                 | 36 Vict. ch. vii.         |
| The Metropolitan Commons Supplemental Act, 1873 (relating to Tooting Beck Common).....                       | 36 & 37 Vict. ch. lxxxvi. |
| The Leicester Square Act, 1874.....                                                                          | 37 Vict. ch. x.           |
| The Metropolitan Board of Works, Various Powers, Act, 1875 (relating to Tooting Graveney Common).....        | 38 & 39 Vict. ch. clxxix. |
| The Metropolitan Board of Works, Various Powers, Act, 1876 (relating to the Thames Embankment, Chelsea)..... | 39 & 40 Vict. ch. lxxix.  |

## LONDON COUNTY COUNCIL (GENERAL POWERS) ACT, 1890.

[53 & 54 Vict. ch. cexliii.]

\* \* \* \* \*

### BYELAWS (PARKS AND OPEN SPACES).

14. It shall be lawful for the council from time to time to make, alter, and repeal in relation to the parks, gardens, and open spaces vested in or under the control of the council, byelaws for all or any of the purposes for which under sections three and four of the Metropolitan Board of Works Act, 1877, they are authorised to make byelaws, whether as regards the parks or the heaths and commons as referred to and defined in that Act, which purposes shall (without restricting the generality of this enactment) be deemed to extend to and include the various matters set out in schedule B. to this Act:

Consolidation of byelaws as to parks and open spaces.

For the purpose of this part of this Act and of the schedule B. to this Act the expression "park, garden, or open space" includes every park, heath, common, recreation ground, garden, ornamental enclosure, or open space now or hereafter vested in or under the control of the council.

15. It shall be lawful for the council from time to time by resolution to apply all or any of the said byelaws to any park, garden, or open space as from a date

Application of byelaws.

such portions of the common and at such times as might be by such written permission directed and sanctioned by the Board. *Held*, that the byelaw was valid. No right on the part of the general public to hold meetings on a common is known to the law. *De Morgan v. Met. Bd. Wks.*, 5 Q. B. D. 155; 49 L. J. M. C. 51.

(z) *Met. Bd. Wks.*—See note (t) on page 1102.



- 53 & 54 Vict. ch. cxxlii. to be specified in such resolution, and as from the date at which by such resolution such byelaws shall be applied to any park, garden, or open space, all other byelaws of the council relative to such park, garden, or open space in force at the date of such resolution shall cease to be of any effect.
- Byelaws as to prohibition of drill. **16.** No such byelaw which shall extend to the prohibition of military drill on any heath or common shall have any force until it has received the sanction of the Secretary of State for War (*a*), nor shall any such byelaw restrict any rights or powers of the said Secretary of State over any park, garden, or open space in any case of national danger or emergency.
- Appointment of constables. **17.** The council may from time to time authorise in writing any of their officers to enforce byelaws made under this part of this Act, and may procure any such officers to be sworn in as constables.
- Arrest of transient offenders. **18.** Any constable or any officer of the council authorised in writing to enforce byelaws made under this part of this Act, and any person called to the assistance of such constable or officer, may, without other warrant than this Act, seize and detain any person committing or having committed any offence against any such byelaw whose name or residence is unknown to and cannot be ascertained by such constable or officer, and take him to a police station or before a justice to be dealt with according to law: Provided that any officer of the council acting under this part of this Act and not being a constable in uniform shall have with him a written authority from the council to act, and shall produce the same if required.
- Allowance of byelaws by Secretary of State. **19.** With respect to byelaws under this part of this Act the following provisions shall apply:—  
 (1) The provisions of the Metropolis Management Act, 1855 (*b*), respecting the making, contents, confirmation, approval, publication, and evidence of byelaws and of proceedings before justices and recovery of penalties thereunder shall extend and apply to such byelaws, and such byelaws shall be deemed byelaws within the Metropolis Management Act, 1855, and Acts amending the same, except that the penalty imposed by such byelaws for each breach of the same may be a sum not exceeding five pounds;  
 (2) A resolution applying all or any of such byelaws to any park, garden or open space shall not have any force unless and until such application be allowed by one of Her Majesty's principal Secretaries of State (*c*);  
 (3) The application of such byelaws, to any park, garden, or open space shall not be allowed until notice of the intention to apply for allowance thereof and of the effect of this section has been published by the council one month at least before (*d*) the application by advertisement in two morning daily papers published in London;  
 (4) During one month at least before (*d*) the application of such byelaws to any park, garden, or open space is allowed a copy of the byelaws to be submitted for allowance shall be kept at the office of the council open for inspection by persons interested, and the council shall furnish a printed copy thereof to every person applying for the same on payment of a sum not exceeding one shilling for each copy, and a printed copy of byelaws of the council under this Act, authenticated by their seal, shall be conclusive evidence of the existence, contents, due making, confirmation, publication, and allowance thereof without proof of such seal or of any other thing.
- Saving rights of East London Water Company. **20.** Nothing in any such byelaws shall prejudice or affect any rights of the East London Waterworks Company with reference to any reservoir or lines of pipe in Finsbury Park under any agreement between such company and the Metropolitan Board of Works, or any right or privilege of the said company of

(*a*) Sanction of Secretary of State for War.—See note (*c*) to sec. 19, *infra*.

(*b*) Met. Man. Act, 1855.—See secs. 202 and 203, as to the making, &c., of byelaws, and sec. 227, *ante*, vol. i., as to the recovery of penalties.

(*c*) Byelaws. Approval of Secretary of State, &c.—Byelaws made by the County Council on the 21st July, 1891, for the government of the parks, gardens, and open spaces vested in or under the control of the Council, as amended on the 3rd July, 1894, were approved by the Home Secretary on the 16th Oct., 1891, and the 3rd July, 1894; and by the Secretary of State for War on the 18th Dec., 1891.

(*d*) One month at least before, i.e., calendar month (Interpretation Act, 1889 (52 & 53 Vict. c. 63), sec. 3), exclusive of the day of application and the day of advertisement. *Railway Sleepers Supply Co., In re*, *ante*, vol. i., p. 291.

access for any purposes for which they now have such rights or privileges to their existing mains, pipes, or works in Finsbury Park, Victoria Park, Stoke Newington Common, and Millfields (Hackney), or of opening lands in any parks or open spaces in which any of their said mains, pipes, or works may be situate or laid.

53 & 54 Vict.  
ch. ccxliii.

21. It shall be lawful for the council to maintain one or more public bands to provide music in parks, gardens, or open spaces under the control of the council, or to make contributions by way of subsidy to any such band or bands, and they may provide and maintain stands and other conveniences for the purposes of such bands, and seats and chairs (e).

Music in  
parks.

\* \* \* \* \*

40. All penalties which may be recovered under any of the byelaws made by the council under the powers of this Act shall, notwithstanding anything contained in an Act made and passed in the session holden in the second and third years of the reign of Her present Majesty, chapter 71, or in any other Act or Acts to the contrary, be paid to the council, and may be carried by them to the credit of the county fund (f).

Penalties  
under byelaws  
to be paid to  
council.

### SCHEDULE B.

#### LONDON COUNCIL.

#### SUBJECTS OF GENERAL BYELAWS FOR PARKS, GARDENS, AND OPEN SPACES.

1. Removing or injuring any of the fountains, statues, monuments, busts, posts, chains, railings, fences, seats, barriers, gates, lamps, lamp-posts, notice boards or plates, watch-boxes, houses, buildings, sheds, urinals, waterclosets, military or other flags, marks or signals, magazines, rifle butts, signals, mantlets, military appliances or other matters or things, or defacing or disfiguring the same by posting or affixing in any way any bill, placard, or notice, or cutting or writing, stamping, printing, drawing, or marking on any property of the council.

2. Cutting, digging up, felling, burning, plucking, breaking, climbing up or upon or doing damage or injury to timber, or to any trees, shrubs, brushwood, fencing, posts, poles, plants, flowers, grass, gorse, heather, furze, fern, or turf, or going or attempting to go within any temporary inclosure formed for the purpose of reviving or renewing the turf, or into any part which is closed for repairs or alterations.

3. Committing any encroachment or making any enclosure.

4. Erecting or placing any post, rail, fence, photographic apparatus, pole, peg, spike, tent, booth, screen, stand, swing, or any building, erection, or obstruction of any kind whatsoever without the consent of the council under the hand of their clerk.

5. Using any part for shaking or beating any carpet, mat, or other thing, or as a drying or bleaching ground by placing clothes or other things on any of the trees or bushes, or on the turf, grass, or ground, or putting up any pole or line or other support for clothes or other articles, or for shaking, beating, or brushing carpets, mats, or other things.

6. Committing any nuisance in or on any park, garden, or open space, or against any of the trees, shrubs, walls, railing fences, magazines, butts, or mantlets, or under any arch or in any lake or river therein or thereon.

7. Depositing or leaving in or on any park, garden, or open space, or in any lake, river, or pond therein or thereon, any timber, bricks, sand, stone, refuse, rubbish, paper, manure, snow, dead animals, or other matter or things, or removing ice from any lake, river, or pond, or fishing with net or rod therein, or in any other way interfering with the fish or waterfowl, or bathing or washing any dog or other animal, or allowing any such dog or other animal to swim in any lake, river, or pond.

(e) **Music.**—The provisions of the above section are deemed to “extend to authorise the council to maintain public bands, or to make contribution by way of subsidy to public bands to provide music in any place within the county in which the council shall think it desirable that music should be provided.” *Lon. Coun. Counc. (Genl. Powers) Act, 1893 (56 & 57 Vict. ch. ccxli.), sec. 18.*

(f) **2 & 3 Vict. c. 71**, i.e., the Metropolitan Police Courts Act, 1839. See *Reg. v. Titterton, ante*, p. 883.

53 & 54 Vict.  
ch. cexliii.

8. Going or attempting to go on any pond, lake, or river when it is frozen after notice that the ice is dangerous has been affixed in a prominent place by the council's officers or the police, or damaging ice or interfering with skating or sliding.

9. Bathing except at such places and within such hours (if any) as may be prescribed by the council, or washing or washing clothes or any other thing in any lake, river, pond, or water, or in any trough or other thing.

10. Taking, digging, cutting, damaging, or removing any grass, gorse, furze, fern, heather, timber, trees, brushwood, gravel, sand, sods, bog earth, clay, turf, mould, soil, or other substance without right or without the consent of the council in writing under the hand of their clerk.

11. Lighting any fire, burning, or doing any act which might cause any timber, wood, brushwood, gorse, heather, fern, earth, paper, rubbish, or other substance to be burned, or sorting rags or matter of like nature, or mending any chair or other article, or causing a litter.

12. Plying for hire with or letting out any horse, pony, mule, ass, goat, or other animal, or using any part of a park, garden, or open space as a standing place for any horse, pony, mule, ass, goat, or other animal, or for any carriage or goat chaise without a licence from the council, or at times other than those named in such licence.

13. The manner of wearing any badge to be supplied by the council to persons licensed by them.

14. Transferring or lending such badge to any other person or not returning the same after the owner's licence has been revoked.

15. Using as standing places for saddle horses, ponies, mules, asses, goats, or other animals, or for carriages or goat chaises any portion of the above-mentioned places except that set apart for the purpose (if any), and marked on duplicate plans deposited at the offices of the council, Spring Gardens, and with the officers in charge of the above-mentioned places, or not fastening such animals to the inside railing of such standing place or being outside such railing for the purpose of plying for hire.

16. Turning out to graze or feed or allowing or suffering to stray or remain any cattle, sheep, swine, horse, ass, mule, goose, duck, fowl, or other animal without right or without the consent of the council in writing under the hand of their clerk.

17. Unlawfully constructing or laying any sewer, drainpipe, or waterway or other matter of like nature.

18. Making or forming any new road or path over or across the parks without the consent of the council in writing under the hand of their clerk.

19. Bird catching, bird trapping, or laying or placing any net or trap for the taking of birds, taking birds' eggs or nests, or shooting or chasing or attempting to shoot or chase any bird, game, or animal, or throwing any stone or stick or other missile with intent to injure or catch any bird, game, or animal.

20. Firing any gun, pistol, revolver, or other firearm, loitering with any firearm, discharging any fireworks, or throwing any stone or stick or other missile, or playing or making sounds on any musical instrument without the consent of the council in writing under the hand of their clerk, or doing anything which may endanger the public or be deemed a nuisance, obstruction, or annoyance to the public, or gambling, playing at any game of chance, betting, or playing with cards or dice.

21. Brawling, fighting, quarrelling, cursing, swearing, or using indecent or improper language, or holding or taking part in any running, fighting, boxing, wrestling, or walking match on or in the parks, sleeping on any of the seats, or sleeping, sitting, or resting in an indecent posture, or being disorderly or wilfully or designedly doing any act which outrages public decency or which comes within the meaning of the 4th section of the Vagrant Act, 5 George 4, chapter 83, whether the offence shall have been or be committed with intent to insult any female or not.

22. Drawing, driving, standing, or placing any gun or gun carriage, limber, or waggon, cart, carriage, van, velocipede, bicycle, tricycle, truck, wheelbarrow or vehicle on or across the ground or turf, on or over any footpath, or in any shrubbery, or taking or driving any omnibus, cart, or business conveyance in any of the parks or gardens which are closed at night, or on such roads as to which the use is restricted by the council to light traffic, without the consent of the council in writing under the hand of their clerk.



23. Riding or driving above the rate of eight miles per hour, or so as to endanger the public, or riding, leading, lunging, or breaking in any horse, ass, mule or other animal on, over, or across the turf, or any footpath, or except where sanctioned by the council or especially allowed by Act of Parliament, which places (if any) are defined by notices and are shown on plans deposited with the officers in charge. 53 & 54 Vict. ch. ccxliii.

24. Exercising as volunteers, or playing or making preparations to play at cricket, football, golf, or any other game without the consent of the council in writing under the hand of their clerk, except on the parts (if any) set apart for games or military exercises.

25. Interfering with, obstructing, or annoying any person or persons who are exercising as volunteers, or are playing or have made preparation to play at cricket, football, golf, or other game with the consent of the council in writing under the hand of their clerk or in pursuance of any general authority or as defined by Act of Parliament.

26. Delivering, uttering, or reading any public speech, lecture, prayer, scripture, sermon, or address of any kind or description whatever, or singing any sacred or secular song, or entering into any public discussion maintaining the right to deliver, utter, or read any public speech, lecture, prayer, scripture, sermon, or address, or holding or causing or taking part in any public assemblage, except between sunrise and sunset, and on the site or sites (if any) approved by the council, which site or sites shall be defined by notice boards and also be shown on duplicate plans deposited at the Home Office and at the offices of the council.

27. Soliciting or gathering money or other thing except within the limits of the site or sites upon which public meetings are allowed to be held.

28. Refusing to leave any park or garden which is closed to the public at night or at or after the time of closing the gates in the evening, if requested to do so by any officer or police constable, or wilfully remaining in such park or garden after the gates are closed in the evening, or climbing on or over the gates, fences, or railings.

29. Selling any article or distributing any bill or like thing without the consent of the council in writing under the hand of their clerk.

30. Taking into or on any portions of any park or garden which are closed at night any dog or dogs not being led by a chain or string or other sufficient fastening.

31. The regulation of waterclosets, urinals, or other convenience, and the charges to be made in respect thereof.

32. Excluding or removing hawkers (whether licensed or not), gipsies, beggars, and rogues and vagabonds.

33. Assaulting or resisting or aiding or inciting any person to assault or resist any officer of the council or other person in the execution of his duty or the lawful exercise of any authority.

34. Fixing the penalties for breaches of byelaws and for defining offences.

35. Defining the parks, gardens, and open spaces to which the byelaws or any of them shall apply.

36. Generally for the good rule and government of the parks, gardens, and open spaces.

## OVERHEAD WIRES.

## LONDON OVERHEAD WIRES ACT, 1891.

54 & 55 Vict. ch. lxxvii. An Act to provide for the control and regulation of Overhead Wires in the Administrative County of London.

[3rd July, 1891]

[*Preamble.*]

Short title and  
extent of Act.  
Interpretation.

1. This Act may be cited for all purposes as the London Overhead Wires Act, 1891, and shall extend and apply to the administrative county of London.

2. In this Act—

The expression “the council” means the London County Council;

The expression “the county” means the administrative county of London;

The expression “local authority” means—

As regards any street, road, embankment, bridge, park, garden, or open space vested in the council, or under their control and management, the council;

\* Subject as aforesaid—

As regards the City of London the commissioners of sewers of the City of London;

As regards any parish named in schedule A. to the Metropolis Management Act, 1855, or any parish which under any subsequent Act is to be dealt with as if named in the said schedule, the vestry of that parish as constituted under the said Acts;

As regards any district mentioned in schedule B. of the Metropolis Management Act, 1855, and not dissolved by any Act amending the same, the district board of such district as constituted under the said Acts;

And as regards any place mentioned in schedule C. of the Metropolis Management Act, 1855, the council;

The expression “the company” means and includes any company or person having placed or claiming any power to place any wire overhead in the county;

The expression “street” has the meaning assigned thereto in the Metropolis Management Act, 1855, and the Metropolis Management Amendment Act, 1862 (*a*);

The expression “wire” includes any wire, conductor, or cable, and any support or attachment thereto, any part of which is placed or shall hereafter be placed over any street, or any part of any street, and also any wire, conductor, cable, support, or attachment placed or intended to be placed on or over any building or land, and situate at any point within a distance of fifty feet from any street, but shall not include any such wire, conductor, cable, support, or attachment which is placed or may be placed wholly upon or over any railway, or any land belonging to a railway company and used as a railway station, siding, or yard, or any part of any such wire, conductor, or cable being upon or over any railway or such land;

The expression “telegraphic line” has the same meaning as in the Telegraph Act, 1878 (*b*).

New overhead  
wires not to be  
placed except  
in accordance  
with byelaws.

3. From and after the passing of this Act the company shall, within one month after they shall have placed any wire overhead, give notice in writing to the council and the local authority specifying the locality and position in which the wire has been placed, and after byelaws in relation to wires shall

*a*) **Street** is defined by the Metrop. Man. Act, 1855, sec. 250, and the Metrop. Man. Act, 1862, sec. 112, *ante*, vol. i.

*b*) **Telegraph line** is defined by the Telegraph Act, 1878 (41 & 42 Vict. c. 76), sec. 2, to mean “telegraphs, posts, and any work (within the meaning of the Telegraph Act, 1863), and also any cables, apparatus, pneumatic or other tube, pipe, or thing whatsoever used for the purpose of transmitting telegraphic messages, or maintaining telegraphic communication, and includes any portion of a telegraphic line as defined by this Act.”

have been made under the powers of this Act it shall not be lawful to place any wire overhead otherwise than subject to and in accordance with such byelaws. 54 & 55 Vict. ch. lxxvii.

4. The company by carrying a wire over any land or building, or supporting such wire thereon or attaching the same thereto, shall not, otherwise than by agreement with the owner of and persons interested in such land or building, acquire any right which shall in any way interfere with any right of such owner or other person, and if at any time by reason of any alteration, rebuilding, or otherwise, it becomes necessary for any such owner or person to require the company to alter or remove any such wire, the company shall alter or remove the same accordingly on being required so to do by notice in writing by such owner or person : Rights over private property not to be acquired except by agreement.

And in the event of the company refusing or neglecting for the space of one month after such requisition to alter or remove the same it shall be lawful for any inspector, officer, or workman duly appointed by the council, with the consent of such owner or person, to remove or alter the same, and to enter upon the land or building for that purpose, and the costs and expenses of and incidental to such removal shall be repaid by the company to the council on demand, and in default of payment may be recovered in a summary way :

As regards the City of London this section shall be read and have effect as if the commissioners of sewers were named therein instead of the council.

5. Subject to the provisions of this Act, the council may from time to time make and vary byelaws with respect to any of the following matters (c) :— Byelaws.

The identification of overhead wires by registration or otherwise ;

The regulation of wires ;

The strength of the materials to be employed in placing, maintaining, and supporting wires ; and

The removal of wires erected or placed otherwise than in accordance with such byelaws and of disused wires :

And they may by such byelaws fix and determine the penalties to be imposed on the company or any person failing to comply with any of the provisions of this Act, and the continuing penalties to be imposed in the event of any such offence being continued after conviction thereof :

Provided that no such byelaw shall have any force or effect until it shall have been approved by the Board of Trade, who may prescribe to whom and in what manner notices of the intended byelaws shall be given, and provided also that before any such byelaws are proposed to the Board of Trade for confirmation notice thereof with copies of the intended byelaws shall be given to the Postmaster-General :

After the making of any such byelaws a copy thereof shall be published in the London Gazette, and in such other newspapers as the Board of Trade may direct :

Provided also that the Board of Trade may exempt any then existing wire from the operation of any such byelaw for such period as they think proper, not exceeding five years from the confirmation thereof.

6. Byelaws under this Act shall, subject to the provisions of this Act, be enforced and administered by the local authority.

7. If in any case in any one or more of the parishes or districts within the county any byelaw under this Act is, in the opinion of the council, inadequately enforced, or if in any two or more of such parishes or districts, owing to want of uniformity in the method of administering any byelaw, the council consider it is expedient in the public interest that provision should be made for duly enforcing such byelaw or establishing uniformity in the application and enforcement of the same, the council may apply to the Board of Trade, who may, after hearing any vestry or district board concerned if they desire to be heard, make, under the hand of a secretary or assistant secretary, such order for securing the enforcement of such byelaw or for establishing uniformity in the administration thereof as they may think expedient. Any such order may include a power to the council to enforce any byelaw in any case in any parish or district, and to recover any expenses incidental thereto from the vestry or district board. Enforcement of byelaws by local authority. Providing for uniformity in enforcement of byelaws.

(c) Byelaws made by the County Council under this Act, and confirmed by the Board of Trade, were published in the *London Gazette* on Aug. 5th, 1892, p. 4443.



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Inspectors of  
overhead wires.  
Removal of  
existing over-  
head wires.

8. It shall be lawful for the council or the local authority, as the case may be, to appoint and employ an inspector or inspectors of wires and such other officers and workmen as they may find requisite for the purposes of this Act.

9. If at any time on the report of any of their inspectors it shall appear to the local authority that any wire is in such a condition that danger to the public using the streets may be apprehended, the local authority may serve notice in writing on the company requiring them to remove, renew, or alter the same, and to place such wire in such position as the local authority may reasonably determine, and in the event of such requisition not being complied with within such reasonable time as shall be therein specified it shall be lawful for the local authority to apply to a court of summary jurisdiction to issue a summons calling on the company to show cause why the wire should not be dealt with in accordance with such requisition, and such court may make an order authorising the local authority or any of their inspectors or officers to remove or alter any such wire and to charge the expenses of such removal or alteration on the company to whom the wire belongs, as may be prescribed in such order. And such expenses may be recovered under the provisions of the Summary Jurisdiction Acts:

Provided that the local authority may at any time after byelaws shall have been made and published under the provisions of this Act proceed under this section without any such notice or requisition in the case of any wire not being in accordance with such byelaws, and at any time after such byelaws are made and published it shall be lawful for the council or local authority to remove any such wire if they are unable to ascertain the owner thereof.

As to liability  
for accidents.

10. Nothing in this Act or in any byelaw made under this Act or any compliance with any of the provisions of this Act or of any such byelaw shall relieve the company from any liability in respect of damage caused by any wire or support or attachment or the failure thereof or otherwise due to any works or operations of the company.

Arbitrator.

11. Where under the provisions of this Act any matter is referred to an arbitrator the reference shall be to an arbitrator who shall be appointed by the Board of Trade on the application of the council, local authority, or the company to whom the question refers.

Notice to be  
given of legal  
proceedings.

12. No writ shall be issued and no proceeding shall be instituted against the council, local authority, or any officer or person acting under their authority in reference to this Act except after such notice and subject to such conditions as are specified in section 106 of the Metropolis Management Amendment Act, 1862, which section shall be deemed to be incorporated with this Act (*d*).

(*d*) **Legal proceedings.**—Sec. 106 of the Met. Man. Amend. Act, 1862, is repealed by the Public Authorities Protection Act, 1893, *post*. It enacted that: "No writ or process shall be sued out against or served upon, and no proceeding shall be instituted against the Met. Bd. Wks., or any vestry or district board, or their clerk, or any clerks, surveyor, contractor, officer, or person whomsoever, acting under their or any of their directions, for anything done or intended to be done under the powers of such board or vestry under the said Acts or this Act, until the expiration of one calendar month next after notice in writing shall have been served upon such board or vestry, or where the action or proceeding shall be against such officer or other person acting under their or any of their directions shall have been delivered to him, or left at his office or place of abode, stating the cause of action or grounds of the proceeding or demand, and the name and place of abode of the intended plaintiff or claimant, and of his attorney or agent in the cause or proceeding: and upon the trial of any action the plaintiff shall not be permitted to go into evidence of any cause or action except such as is stated in the notice so served or delivered, and unless such notice be proved the jury shall find for the defendant; and every such action and proceeding shall be brought or commenced within six months next after the accrual of the cause of action or ground of claim or demand, and not afterwards, and every such action shall be laid and tried in the county or place where the cause of action accrued, and not elsewhere; and the defendant shall in any such action be at liberty to plead the general issue, and give the said recited Acts and this Act and all special matter in evidence thereunder; and it shall be lawful for the board or vestry, or any person to whom such notice is given as aforesaid, to tender amends to the plaintiff, his attorney or agent, at any time within one calendar month after service of such notice, and in case the same be not accepted to plead such tender in bar, and (by leave of the court)

13. Every sum of money required by this Act to be paid to the council or local authority and every penalty imposed by any byelaw made in pursuance of this Act may be recovered by the council or local authority in a summary way.

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14. All penalties which may be recovered under any of the byelaws made under the powers of this Act shall, notwithstanding anything contained in an Act made and passed in the session holden in the second and third years of the reign of Her present Majesty, chapter 71 (e), or in any other Act or Acts to the contrary, if recovered by the council, be paid to the council, and be carried by them to the credit of the county fund, or, if recovered by the local authority, be paid to their treasurer to their account, or, if recovered by the commissioners of sewers, be carried to the credit of their consolidated rate.

Recovery of  
penalties.  
Application of  
penalties.

15. The production of a written copy of a byelaw made under this Act, if authenticated by the corporate seal of the council, shall, until the contrary is proved, be sufficient evidence of the due making and existence of the byelaw and of the byelaw having been approved by the Board of Trade.

Evidence of  
byelaws.

16. The company shall not under the powers of this Act or any byelaw made under this Act be required to place any wire in any manner which shall be inconsistent with any regulation or condition for securing the safety of the public or for the protection of the electric lines and works of the Postmaster-General made, prescribed, or imposed by the Board of Trade under the Electric Lighting Acts, 1882 and 1888, or under any special Act or provisional order or licence under the provisions of the Electric Lighting Acts, 1882 and 1888, or either of them.

Wires not to  
be inconsistent  
with regula-  
tions of Board  
of Trade.

17. Nothing in this Act or any byelaw made in pursuance thereof shall apply or extend to any undertakers acting under special Act, provisional order, or licence under the Electric Lighting Acts, 1882 and 1888, or to any wires of such undertakers (f).

As to autho-  
rised electric  
lighting under-  
takers and  
wires.

18. Nothing in this Act shall extend to any wire placed by any person for his private use over land belonging to him or in his occupation which does not extend over any street and is so constructed and placed that neither the wire nor any support thereof or attachment thereto would be liable to fall into any public street.

Exempting  
private wires.

19. Nothing in this Act contained shall be deemed to authorise the council to confer any powers of placing wires for electric lighting purposes overhead on any company, body, or person not authorised so to place such wires by a special Act, provisional order, or licence under the provisions of the Electric Lighting Acts, 1882 and 1888.

Not to  
authorise  
placing un-  
authorised  
wires over-  
head.

20. Nothing in this Act shall authorise any wire to be carried over, supported on, or attached to any land, building, or structure in the occupation and under the management of or maintained by Her Majesty or Her Majesty's Duchy of Lancaster or the Duchy of Cornwall, or any department of Her Majesty's Government, or shall authorise any entry upon any such land, building, or structure without in each case the consent of the department of Her Majesty's Government or of the officer or body charged with the management of such land, building, or structure.

Exemption of  
Government  
and Crown  
property from  
powers as to  
overhead wires.

21. Nothing in this Act or in any byelaws made in pursuance of this Act shall be deemed to apply or extend (except by way of protection) to any telegraphic line belonging to or used by the Postmaster-General, or to any support or attachment thereof, and nothing in this Act or in any such byelaws shall be

Saving for  
Postmaster-  
General.

with the general issue or other plea or pleas; and if upon issue joined upon any plea pleaded to the whole action the jury find generally for the defendant, or if the plaintiff be nonsuited or discontinue, or if judgment be given for the defendant, then the defendant shall be entitled to full costs of suit, and have judgment accordingly; and in case the amends tendered be insufficient, it shall be lawful for the defendant, by leave of the court, at any time before trial, to pay into court under plea such sum of money as he may think proper, and (by the like leave) to plead the general issue or other plea or pleas, any rule of court or practice to the contrary notwithstanding."

(e) 2 & 3 Vict. c. 71, i.e., the Metropolitan Police Courts Act, 1839. See note to sec. 26 of the Sale of Food and Drugs Act, 1875, *ante*, tit. "*Food and Drugs*."

(f) Electric lighting wires over streets.—See the Electric Lighting Act, 1882, sec. 14, *ante*, tit. "*Electric Lighting*."

54 & 55 Vict. deemed to take away, abridge, or prejudicially affect any right, power, or  
 ch. lxxvii. privilege enjoyed by the Postmaster-General.

As to payments **22.** All costs and expenses of any vestry or district board in the execution of  
 by local this Act or any byelaws under this Act shall be paid as part of the expenses of  
 authorities such vestry or district board of executing the Metropolis Management Act,  
 under this Act. 1855 (*g*), and the Acts amending the same, and all costs and expenses of the  
 commissioners of sewers in the execution of this Act or any byelaws under this  
 Act shall be paid out of the consolidated rate as part of the expenses of such  
 commissioners.

**23.** [*Council's expenses under this Act to be defrayed out of general county fund.*]

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(*g*) **Met. Man. Act, 1855.**—*Ante*, vol. i.



## PETROLEUM.

|                                                                 |           |
|-----------------------------------------------------------------|-----------|
| 34 & 35 Vict. c. 105 ( " Petroleum Act, 1871 " ).....           | page 1113 |
| 42 & 43 Vict. c. 47 ( " Petroleum Act, 1879 " ) .....           | 1118      |
| 44 & 45 Vict. c. 67 ( " Petroleum (Hawkers) Act, 1881 " ) ..... | 1121      |

## PETROLEUM ACT, 1871.

**34 & 35 Vict. c. 105.** An Act for the safe keeping of Petroleum and other substances of a like nature. [21st August, 1871]

1. This Act may be cited as " The Petroleum Act, 1871." Short title of Act.
2. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter assigned to them ; that is to say—  

|                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| *        *        *        *        *        *        *                                                                                                                                                                                                                                                                                                                                                                                                | Interpretation of certain terms in the Act : |
| The term " person " includes a body corporate :                                                                                                                                                                                                                                                                                                                                                                                                        | " Person : "                                 |
| *        *        *        *        *        *        *                                                                                                                                                                                                                                                                                                                                                                                                |                                              |
| The term " harbour " means any harbour properly so called, whether natural or artificial, and any port, haven, estuary, tidal river or other river, canal or inland navigation navigated by sea-going ships, and any dock, pier, jetty, or other works in or at which ships do or can ship or unship goods or passengers :                                                                                                                             | " Harbour : "                                |
| The term " harbour authority " includes any persons or person being or claiming to be proprietors or proprietor of or intrusted with the duty or invested with the power of improving, maintaining, or managing any harbour :                                                                                                                                                                                                                          | " Harbour authority. "                       |
| The term " ship " includes every description of vessel used in navigation, whether propelled by oars or otherwise :                                                                                                                                                                                                                                                                                                                                    | " Ship : "                                   |
| *        *        *        *        *        *        *                                                                                                                                                                                                                                                                                                                                                                                                |                                              |
| The term " court of summary jurisdiction " means and includes any justice or justices of the peace, sheriff or sheriff substitute, metropolitan police magistrate, stipendiary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to, or to proceedings before whom the provisions of the Summary Jurisdiction Acts are or may be made applicable : | " Court of summary jurisdiction : "          |
| The term " county rate " means as regards Scotland the county general assessment leviable in pursuance of " The County General Assessment (Scotland) Act, 1868, " and as regards Ireland the grand jury cess.                                                                                                                                                                                                                                          | " County rate : " 31 & 32 Vict. c. 82.       |
3. For the purposes of this Act the term " petroleum " includes any rock oil, Rangoon oil, Burmah oil, oil made from petroleum, coal, schist, shale, peat, or other bituminous substance, and any products of petroleum, or any of the above-mentioned oils (a) ; . . . Definition of " petroleum " and application of Act.
4. Every harbour authority shall frame and submit for confirmation to the Board of Trade byelaws for regulating the place or places at which ships carrying petroleum to which this Act applies are to be moored in the harbour over which such authority has jurisdiction, and are to land their cargo, and for regulating the time and mode of, and the precautions to be taken on, such landing. The harbour authority shall publish the byelaws so framed with a notice of the intention of such authority to apply for the confirmation thereof. The Board of Trade may confirm such byelaws with or without any omission, addition, or alteration, or may disallow the same. Byelaws as to ship carrying petroleum.

Every such byelaw when confirmed shall be published by the harbour authority, and may be from time to time altered or repealed by a byelaw made in like manner. Byelaws under this section shall be published in such manner as the Board of Trade may from time to time direct.

(a) **Definition of petroleum.**—The words omitted at the end of sec. 3 are repealed by the Petroleum Act, 1879, sec. 6, and amended provisions substituted by sec. 2 of that Act, *post*.

34 & 35 Vict.  
c. 105.

If at any time it appears to the Board of Trade that there is no byelaw for the time being in force under this section in any harbour the Board of Trade may, by notice, require the harbour authority of such harbour to frame and submit to them a byelaw for the purposes of this section, and if such harbour authority make default in framing a byelaw and obtaining the confirmation thereof within the time limited by such notice the Board of Trade may make a byelaw for the purposes of this section, and such byelaw shall have the same effect as if it had been framed by the harbour authority and confirmed by the Board of Trade.

Where any ship or cargo is moored, landed, or otherwise dealt with in contravention of any byelaw for the time being in force under this Act in any harbour, the owner and master of such ship, or the owner of such cargo, as the case may be, shall each incur a penalty not exceeding fifty pounds for each day during which such contravention continues, and it shall be lawful for the harbour master or any other person acting under the orders of the harbour authority of such harbour to cause such ship or cargo to be removed, at the expense of the owner thereof, to such place as may be in conformity with the said byelaw, and all expenses incurred in such removal may be recovered in the same manner in which penalties are by this Act made recoverable.

Notice by  
owner or  
master of  
ship carrying  
petroleum.

5. The owner or master of every ship carrying a cargo any part of which consists of petroleum to which this Act applies, on entering any harbour within the United Kingdom, shall give notice of the nature of such cargo to the harbour authority having jurisdiction over such harbour.

If such notice is not given the owner and master of such ship shall each incur a penalty not exceeding the sum of five hundred pounds, unless it is shown to the satisfaction of the court before which the case is tried that neither the owner nor the master knew the nature of the goods to which the proceedings relate, nor could with reasonable diligence have obtained such knowledge.

Label on  
vessels  
containing  
petroleum.

6. Where any petroleum to which this Act applies (b)—

(a) Is kept at any place except during the seven days next after it has been imported; or

(b) Is sent or conveyed by land or water between any two places in the United Kingdom; or

(c) Is sold or exposed for sale;

the vessel containing such petroleum shall have attached thereto a label in conspicuous characters, stating the description of the petroleum, with the addition of the words "highly inflammable," and with the addition—

(a) In the case of a vessel kept, of the name and address of the consignee or owner;

(b) In the case of a vessel sent or conveyed, of the name and address of the sender;

(c) In the case of a vessel sold or exposed for sale, of the name and address of the vendor.

All petroleum to which this Act applies which is kept, sent, conveyed, sold, or exposed for sale, in contravention of this section, shall, together with the vessel containing the same, be forfeited, and in addition thereto the person keeping, sending, selling, or exposing for sale the same shall for each offence be liable to a penalty not exceeding five pounds.

Regulations as  
to storage of  
petroleum.

7. Save as hereinafter mentioned, . . . petroleum to which this Act applies (b) shall not be kept (c), except in pursuance of a licence given by such local authority as is in this Act mentioned.

All petroleum kept in contravention of this section shall, together with the vessel containing the same, be forfeited, and in addition thereto the occupier of the place in which such petroleum is so kept shall be liable to a penalty not exceeding twenty pounds a day for each day during which such petroleum is so kept.

(b) **Petroleum to which this Act applies.**—The keeping and use of petroleum or other inflammable liquid or fuel for the purpose of light locomotives shall be subject to regulations made by the Secretary of State, and regulations so made shall have effect notwithstanding anything in the Petroleum Acts, 1871 to 1881." Locomotives on Highways Act, 1896, *ante*, tit. "*Highways*." The regulations in force at the date of publication of this work were dated Nov. 3rd, 1896.

(c) **Shall not be kept.**—It was held that hawking petroleum in a cart was keeping it within this section. *Coleman v. Goldsmith*, 43 J. P. 718. But see now the Petroleum (Hawkers) Act, 1881, sec. 1, *post*.

This section shall not apply to any petroleum kept either for private use or for sale, provided the following conditions are complied with: 34 & 35 Vict. c. 105.

- (1) That it is kept in separate glass, earthenware, or metal vessels, each of which contains not more than a pint, and is securely stopped;
- (2) That the aggregate amount kept, supposing the whole contents of the vessels to be in bulk, does not exceed three gallons.

8. The following bodies shall respectively be the local authority to grant licences under this Act in the districts hereinafter mentioned; that is to say— Definition of local authority.

- (1) In the City of London, except as hereafter in this section mentioned, the court of the Lord Mayor and aldermen of the said City (d):
- (2) In the Metropolis (that is, in places for the time being within the jurisdiction of the Metropolitan Board of Works (e) under the Metropolis Management Act, 1855), except the City of London, and except as hereafter in this section mentioned, the Metropolitan Board of Works (e):

\* \* \* \* \*

- (8) In any harbour within the jurisdiction of a harbour authority, whether situate or not within the jurisdiction of any local authority before in this section mentioned, the harbour authority, to the exclusion of any other local authority.

\* \* \* \* \*

9. Licences in pursuance of this Act shall be valid if signed by two or more of the persons constituting the local authority, or executed in any other way in which other licences, if any, granted by such authority are executed. Licences may be granted for a limited time and may be subject to renewal or not in such manner as the local authority think necessary. Mode of granting licences.

There may be annexed to any such licence such conditions (f) as to the mode of storage, the nature and situation of the premises in which, and the nature of the goods with which petroleum to which this Act applies is to be stored, the facilities for the testing of such petroleum from time to time, the mode of carrying such petroleum within the district of the licensing authority, and generally as to the safe keeping of such petroleum as may seem expedient to the local authority.

Any licensee violating any of the conditions of his licence shall be deemed to be an unlicensed person. There may be charged in respect of each licence granted in pursuance of this Act such sum, not exceeding five shillings, as the local authority may think fit to charge.

10. If on any application for a licence under this Act the local authority refuse the licence, or grant the same only on conditions with which the applicant is dissatisfied, the local authority shall, if required by the applicant, deliver to him in writing under the hand or hands of one or more of the persons constituting the local authority, a certificate of the grounds on which they refused the licence or annexed conditions to the grant thereof. In case of refusal of licence the applicant may memorialise Secretary of State or Lord Lieutenant.

The applicant within ten days from the time of the delivery of the certificate may transmit the same to a Secretary of State if the application is for a licence in England or Scotland, and to the Lord Lieutenant if the application is for a licence in Ireland, together with a memorial, praying that notwithstanding such refusal the licence may be granted, or that the conditions may not be imposed, or may be altered or modified in such manner and to such extent as may be set forth in such memorial.

It shall be lawful for the Secretary of State, or the Lord Lieutenant, if he think fit, on consideration of such memorial and certificate, and, if he think it necessary or desirable, after due inquiry and a report by such person as he may appoint for that purpose, to grant the licence paid for, either absolutely or with such conditions as he thinks fit, or to alter or modify the conditions imposed by the local authority; and the licence so granted, or altered and modified, as the

(d) Court of Lord Mayor and Aldermen.—Now the Common Council. Loc. Govt. Act, 1888, sec. 41 (1) (a), *ante*, vol. i.

(e) Met. Bd. Wks.—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(f) Conditions.—A licence to keep petroleum includes a right to hawk it, and any condition inconsistent with such right is void. Petroleum (Hawkers) Act, 1881, secs. 1 and 3, *post*.



34 & 35 Vict.  
c. 105.

Testing of  
petroleum by  
officer of local  
authority.

case may be, when certified under the hand of a Secretary of State, or the Lord Lieutenant, shall be to all intents as valid as if granted by the local authority.

11. Any officer authorised by the local authority may purchase any petroleum from any dealer in it, or may, on producing a copy of his appointment, purporting to be certified by the clerk or some member of the local authority, or producing some other sufficient authority, require the dealer to show him every or any place, and all or any of the vessels in which any petroleum in his possession is kept, and to give him samples of such petroleum on payment of the value of such samples.

When the officer has by either of the means aforesaid taken samples of petroleum, he may declare in writing to the dealer that he is about to test the same, or cause the same to be tested, in manner set forth in schedule one to *this Act* (g), and it shall be lawful for him to test the same or cause the same to be tested, at any convenient place at such reasonable time as he may appoint, and the dealer or any person appointed by him may be present at the testing, and if it appear to the officer or other person so testing that the petroleum from which such samples have been taken is petroleum to which this Act applies, such officer or other person may certify such fact, and the certificate so given shall be receivable as evidence in any proceedings that may be taken against a dealer in petroleum in pursuance of this Act; but it shall be lawful for a dealer proceeded against to give evidence in proof that such certificate is incorrect, and thereupon the court before which any such proceedings may be taken may, if such court think fit, appoint some person skilled in testing petroleum to examine the samples to which such certificate relates, and to declare whether such certificate is correct or incorrect (h).

Any expenses incurred in testing any petroleum of such dealer in pursuance of this section shall, if such dealer be convicted of keeping, sending, conveying, selling, or exposing for sale, petroleum in contravention of this Act, be deemed to be a portion of the costs of the proceedings against him, and shall be paid by him accordingly. In any other event such expenses shall be paid by the local authority out of any funds for the time being in their hands, and in case the local authority are the justices, out of the county rate.

Penalty for  
refusing in-  
formation and  
obstructing  
officer.

12. Any dealer who refuses to show to any officer authorised by the local authority every or any place or all or any of the vessels in which petroleum in his possession is kept, or to give him such assistance as he may require for examining the same, or to give to such officer samples of such petroleum on payment of the value of such samples, or who wilfully obstructs the local authority, or any officer of the local authority, in the execution of this Act, shall incur a penalty not exceeding twenty pounds.

Search for  
petroleum.

13. Where any court of summary jurisdiction is satisfied by information on oath that there is reasonable ground to believe that any petroleum to which this Act applies is being kept, sent, conveyed, or exposed for sale within the jurisdiction of such court in contravention of this Act, at any place, whether a building or not, or in any ship or vehicle, such court shall grant a warrant by virtue whereof it shall be lawful for any person named in such warrant to enter the place, ship, or vehicle named in such warrant, and every part thereof, and examine the same and search for petroleum therein, and take samples of any petroleum found therein, and if any petroleum to which this Act applies be found therein, which is kept, sent, conveyed, or exposed for sale, in contravention of this Act, to seize and remove such petroleum, and the vessel containing the same, and to detain such petroleum and vessel until some court of summary jurisdiction has determined whether the same are or not forfeited, the proceedings for which forfeiture shall be commenced forthwith after the seizure.

Any person seizing any petroleum to which this Act applies in pursuance of this section shall not be liable to any suit for detaining the same, or for any loss or damage incurred in respect of such petroleum, otherwise than by any wilful act or neglect while the same is so detained.

(g) **Schedule 1 to this Act.**—Now sched. 1 to the Petroleum Act, 1879, *post*. *Ib.*, sec. 2.

(h) **Proceedings before magistrates.**—Where the magistrate comes to the conclusion that the test has been properly made the only course for any party dissatisfied with the test to pursue appears to be to apply for a further test to be made, as provided by this section. *Beck v. Stringer*, L. R. 6 Q. B. 497; 40 L. J. M. C. 174.

If any petroleum to which this Act applies is seized in pursuance of this section in any ship or vehicle, the person seizing the same may use for the purposes of the removal thereof, during twenty-four hours after the seizure, the said ship or vehicle, with the tackle, beasts, and accoutrements belonging thereto, and if he do so shall pay to the owner thereof a reasonable recompense for the use thereof, and the amount of such recompense shall, in case of dispute, be settled by the court of summary jurisdiction before whom proceedings for the forfeiture are taken, and may be recovered in like manner as penalties under this Act may be recovered.

34 & 35 Vict.  
c. 105.

Any person who, by himself or by any one in his employ or acting by his direction or with his consent, refuses or fails to admit into any place occupied by or under the control of such person, any person demanding to enter in pursuance of this section, or in any way obstructs or prevents any person in or from making any such search, examination, or seizure, or taking any such samples as authorised by this section, shall be liable to pay a penalty not exceeding twenty pounds, and to forfeit all petroleum to which this Act applies which is found in his possession or under his control.

14. Her Majesty may from time to time make, revoke, and vary orders in council directing this Act or any part thereof to apply to any substance, and this Act, or the part thereof specified in the order shall, during the continuance of the order, apply to such substance, and shall be construed and have effect as if throughout it such substance had been included in the definition of petroleum to which this Act applies, subject to the following qualifications (i):

Application  
of Act to other  
substances.

- (1) The quantity of any substance to which this Act is directed by order in council to apply, which may be kept without a licence, shall be such quantity only as is specified in that behalf in such order, or if no such quantity is specified no quantity may be kept without a licence:
- (2) The label on the vessel containing such substance shall be such as may be specified in that behalf in the order.

15. In England and Ireland all offences and penalties under this Act, and all money and costs directed by this Act to be recovered as penalties, may be prosecuted and recovered in manner provided by the Summary Jurisdiction Acts.

Summary  
proceedings  
for offences,  
penalties, &c.

In Scotland . . .

Provided as follows:

1. A court of summary jurisdiction shall not impose a penalty exceeding fifty pounds, but any such court may impose that or any less penalty for any one offence, notwithstanding the offence involves a penalty of higher amount.

2. In Scotland . . .

3. The "court of summary jurisdiction," when hearing and determining an information or complaint, shall be constituted in some one of the following manners; that is to say—

(a) In England, either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of one of the magistrates hereinafter mentioned, sitting alone or with others at some court or other place appointed for the administration of justice; that is to say, the Lord Mayor, or any alderman of the City of London, a metropolitan police magistrate, a stipendiary magistrate, or some other officer or officers for the time being empowered by law to do alone or with others any act authorised to be done by more than one justice of the peace:

(b) In Scotland . . .

(c) In Ireland . . .

(k) \* \* \* \* \*

6. No conviction or order made in pursuance of this Act shall be quashed for want of form or be removed by certiorari (l) or otherwise, either at the instance of the Crown or of any private party, into any superior court (k) . . .

\* \* \* \* \*

(i) **Order in Council.**—No Order in Council under this section had been issued up to the date of the publication of this work.

(k) **Section 15.**—Sub-secs. 4, 5, and 7, and the words omitted from sub-sec. 6, are repealed and provisions substituted by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43).

(l) **Certiorari.**—See note to sec. 220 of the Mun. Corp. Act, 1882, *ante*, vol. i.

34 & 35 Vict.  
c. 105.

Reservation  
of previous  
powers with  
respect to  
inflammable  
substances.

16. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on any local or harbour authority by Act of Parliament, law, or custom, and every local authority and harbour authority may exercise such other powers in the same manner as if this Act had not passed; and nothing in this Act contained shall be deemed to exempt any person from any penalty to which he would otherwise be subject in respect of a nuisance (*m*).

17. [*Repeal of Acts in sched. 2. Rep. by 46 & 47 Vict. c. 39. Statute Law Revision.*]

18. [*Duration of Act. Rep. by Petroleum Act, 1879, sec. 6, post.*]

## SCHEDULES.

### SCHEDULES ONE AND TWO.

[*Sched. 1 is replaced by Petroleum Act, 1879, sched. 1, post, and scheds. 1 and 2 are repealed by 46 & 47 Vict. c. 39. Statute Law Revision.*]

## PETROLEUM ACT, 1879.

42 & 43 Vict. c. 47. An Act to continue and amend the Petroleum Act, 1871. [11th August, 1879]

Short title and  
construction of  
Act.

34 & 35 Vict.  
c. 105.

Alteration of  
test.

34 & 35 Vict.  
c. 105.

34 & 35 Vict.  
c. 105.

Verification of  
test apparatus.

1. This Act may be cited as the Petroleum Act, 1879.

This Act shall be construed as one with the Petroleum Act, 1871, and together with that Act may be cited as the Petroleum Acts, 1871 and 1879.

2. [*Recital of Petroleum Act, 1871.*]

In the Petroleum Act, 1871, the term "petroleum to which this Act applies" (*n*) shall mean such of the petroleum defined by section three of that Act as, when tested in manner set forth in schedule one of this Act, gives off an inflammable vapour at a temperature of less than seventy-three degrees of Fahrenheit's thermometer.

Every reference in the Petroleum Act, 1871, to schedule one to that Act shall be construed to refer to schedule one to this Act.

3. A model of the apparatus for testing petroleum, as described in schedule one to this Act, shall be deposited with the Board of Trade, and the Board of Trade shall, on payment of such fee, not exceeding five shillings, as they from time to time prescribe, cause to be compared with such model and verified every apparatus constructed in accordance with schedule one to this Act which is submitted to them for the purpose, and if the same is found correct shall stamp the same with a mark approved of by the Board and notified in the London Gazette (*o*).

An apparatus for testing petroleum purporting to be stamped with the said mark shall, until the contrary is proved, be deemed to have been verified by the Board of Trade.

All fees under this section shall be paid into the Exchequer.

4—6. [*Continuance of Petroleum Act, 1871; commencement of Act; repeal of part of sec. 3 and sec. 18 of Petroleum Act, 1871. Rep. by 57 & 58 Vict. c. 56. Statute Law Revision.*]

(*m*) **Nuisance.**—The deposit or storing of any substance which is a serious danger to life or property is an indictable offence. *Reg. v. Lister, ante*, p. 840.

(*n*) **Petroleum to which this Act applies.**—As to petroleum for light locomotives, see note to Petroleum Act, 1871, sec. 6, *ante*.

(*o*) **Mark approved by Bd. of Trade.**—The mark is to consist of the letters V.R. above a portcullis above the figures 1880. *Lord. Gaz.*, Jan. 2nd, 1880, p. 2.



FIRST SCHEDULE.

42 & 43 Vict.  
c. 47.

MODE OF TESTING PETROLEUM SO AS TO ASCERTAIN THE TEMPERATURE AT WHICH IT WILL GIVE OFF INFLAMMABLE VAPOUR.

SPECIFICATION OF THE TEST APPARATUS.

The following is a description of the details of the apparatus :

The oil cup consists of a cylindrical vessel 2" diameter,  $2\frac{3}{10}$ " height (internal), with outward projecting rim  $\frac{5}{10}$ " wide,  $\frac{3}{8}$ " from the top, and  $1\frac{1}{8}$ " from the bottom of the cup. It is made of gun metal or brass (17 B.W.G.) tinned inside. A bracket, consisting of a short stout piece of wire bent upwards and terminating in a point, is fixed to the inside of the cup to serve as a gauge. The distance of the point from the bottom of the cup is  $1\frac{1}{2}$ ". The cup is provided with a close-fitting overlapping cover made of brass (22 B.W.G.), which carries the thermometer and test lamp. The latter is suspended from two supports from the side by means of trunnions, upon which it may be made to oscillate; it is provided with a spout, the mouth of which is one-sixteenth of an inch in diameter. The socket which is to hold the thermometer is fixed at such an angle and its length is so adjusted that the bulb of the thermometer when inserted to its full depth shall be  $1\frac{1}{2}$ " below the centre of the lid.

The cover is provided with three square holes, one in the centre,  $\frac{5}{10}$ " by  $\frac{4}{10}$ ", and two smaller ones,  $\frac{3}{10}$ " by  $\frac{2}{10}$ ", close to the sides and opposite each other. These three holes may be closed and uncovered by means of a slide moving in grooves, and having perforations corresponding to those on the lid.

In moving the slide so as to uncover the holes, the oscillating lamp is caught by a pin fixed in the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. Upon the slide being pushed back so as to cover the holes, the lamp returns to its original position.

Upon the cover, in front of and in line with the mouth of the lamp, is fixed a white bead, the dimensions of which represent the size of the test flame to be used.

The bath or heated vessel consists of two flat-bottomed copper cylinders (24 B.W.G.), an inner one of 3" diameter and  $2\frac{1}{2}$ " height, and an outer one of  $5\frac{1}{8}$ " diameter and  $5\frac{3}{4}$ " height; they are soldered to a circular copper plate (20 B.W.G.) perforated in the centre, which forms the top of the bath, in such a manner as to enclose the space between the two cylinders, but leaving access to the inner cylinder. The top of the bath projects both outwards and inwards about  $\frac{3}{8}$ "; that is, its diameter is about  $\frac{3}{8}$ " greater than that of the body of the bath, while the diameter of the circular opening in the centre is about the same amount less than that of the inner copper cylinder. To the inner projection of the top is fastened, by six small screws, a flat ring of ebonite, the screws being sunk below the surface of the ebonite, to avoid metallic contact between the bath and the oil cup. The exact distance between the sides and bottom of the bath and of the oil lamp is one half of an inch. A split socket similar to that on the cover of the oil cup, but set at a right angle, allows a thermometer to be inserted into the space between the two cylinders. The bath is further provided with a funnel, an overflow pipe, and two loop handles.

The bath rests upon a cast-iron tripod stand, to the ring of which is attached a copper cylinder or jacket (24 B.W.G.) flanged at the top, and of such dimensions that the bath, while firmly resting on the iron ring, just touches with its projecting top the inward-turned flange. The diameter of this outer jacket is  $6\frac{1}{2}$ ". One of the three legs of the stand serves as support for the spirit lamp attached to it by means of a small swing bracket. The distance of the wick holder from the bottom of the bath is 1".

Two thermometers are provided with the apparatus, the one for ascertaining the temperature of the bath, the other for determining the flashing point. The thermometer for ascertaining the temperature of the water has a long bulb and a space at the top. Its range is from about 90° to 190° Fahrenheit. The scale (in degrees of Fahrenheit) is marked on an ivory back fastened to the tube in the usual way. It is fitted with a metal collar, fitting the socket, and the part of the tube below the scale should have a length of about  $3\frac{1}{2}$ " measured from the lower end of the scale to the end of the bulb. The thermometer for ascertaining the temperature of the oil is fitted with collar and ivory scale in a similar manner to the one described. It has a round bulb, a space at the

42 & 43 Vict. top, and ranges from about 55° F. to 150° F.; it measures from end of ivory  
c. 47. back to bulb 2½".

NOTE.—A model apparatus is deposited at the Weights and Measures Department of the Board of Trade.

#### DIRECTIONS FOR APPLYING THE FLASHING TEST.

1. The test apparatus is to be placed for use in a position where it is not exposed to currents of air or draughts.

2. The heating vessel or water bath is filled by pouring water into the funnel until it begins to flow out at the spout of the vessel. The temperature of the water at the commencement of the test is to be 130° Fahrenheit, and this is attained in the first instance either by mixing hot and cold water in the bath, or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or by heating the water with the spirit lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

If the water has been heated too highly, it is easily reduced to 130° by pouring in cold water little by little (to replace a portion of the warm water) until the thermometer gives the proper reading.

When a test has been completed, this water bath is again raised to 130° by placing the lamp underneath, and the result is readily obtained while the petroleum cup is being emptied, cooled, and refilled with a fresh sample to be tested. The lamp is then turned on its swivel from under the apparatus, and the next test is proceeded with.

3. The test lamp is prepared for use by fitting it with a piece of flat plaited candle wick, and filling it with colza or rape oil up to the lower edge of the opening of the spout or wick tube. The lamp is trimmed so that when lighted it gives a flame of about 0.15 of an inch diameter, and this size of flame, which is represented by the projecting white bead on the cover of the oil cup, is readily maintained by simple manipulation from time to time with a small wire trimmer.

When gas is available it may be conveniently used in place of the little oil lamp, and for this purpose a test-flame arrangement for use with gas may be substituted for the lamp.

4. The bath having been raised to the proper temperature, the oil to be tested is introduced into the petroleum cup, being poured in slowly until the level of the liquid just reaches the point of the gauge which is fixed in the cup. In warm weather the temperature of the room in which the samples to be tested have been kept should be observed in the first instance, and if it exceeds 65° the samples to be tested should be cooled down (to about 60°) by immersing the bottles containing them in cold water, or by any other convenient method. The lid of the cup, with the slide closed, is then put on, and the cup is placed into the bath or heating vessel. The thermometer in the lid of the cup has been adjusted so as to have its bulb just immersed in the liquid, and its position is not under any circumstances to be altered. When the cup has been placed in the proper position the scale of the thermometer faces the operator.

5. The test lamp is then placed in position upon the lid of the cup, the lead line or pendulum, which has been fixed in a convenient position in front of the operator, is set in motion, and the rise of the thermometer in the petroleum cup is watched. When the temperature has reached about 66° the operation of testing is to be commenced, the test flame being applied once for every rise of one degree in the following manner:—

The slide is slowly drawn open while the pendulum performs three oscillations, and is closed during the fourth oscillation.

NOTE.—If it is desired to employ the test apparatus to determine the flashing points of oil of very low volatility, the mode of proceeding is to be modified as follows:—

The air-chamber which surrounds the cup is filled with cold water to a depth of 1½ inches, and the heating vessel or water bath is filled as usual, but also with cold water. The lamp is then placed under the apparatus and kept there during the entire operation. If a very heavy oil is being dealt with, the operation may be commenced with water previously heated to 120° instead of with cold water.

#### SECOND SCHEDULE.

[Acts repealed. Rep. by 57 & 58 Vict. c. 56. Statute Law Revision.]

## PETROLEUM (HAWKERS) ACT, 1881.

**44 & 45 Vict. c. 67.** An Act to regulate the hawking of Petroleum and other substances of a like nature. [27th August, 1881]

**1.** Any person who is licensed in pursuance of the Petroleum Act, 1871, to keep petroleum to which that Act applies may, subject to the enactments for the time being in force with respect to hawkers and pedlars (*p*), hawk such petroleum by himself or his servants. Power to hawk petroleum.  
34 & 35 Vict. c. 105.

**2.** With respect to the hawking of petroleum to which the Petroleum Act, 1871, applies (*q*), the following regulations shall be observed: Regulations for hawking petroleum.

(1) The amount of petroleum conveyed at one time in any one carriage shall not exceed twenty gallons:

(2) The petroleum shall be conveyed in a closed vessel so constructed as to be free from leakage:

(3) The carriage in which the vessels containing the petroleum are conveyed shall be so ventilated as to prevent any evaporation from the petroleum mixing with the air in or about the carriage in such proportion as to produce or be liable to produce an explosive mixture:

(4) Any fire or light or any article of an explosive or highly inflammable nature shall not be brought into or dangerously near to the carriage in which the vessels containing the petroleum are conveyed:

(5) The carriage in which the vessels containing the petroleum are conveyed shall be so constructed or fitted that the petroleum cannot escape therefrom in the form of liquid, whether ignited or otherwise:

(6) Proper care shall be taken to prevent any petroleum escaping into any part of a house or building, or of the curtilage thereof, or into a drain or sewer.

(7) The petroleum shall be stored in some premises licensed for keeping of petroleum and in accordance with the licence for such premises both every night and also when the petroleum is not in the course of being hawked:

(8) All due precautions shall be taken for the prevention of accidents by fire or explosion, and for preventing unauthorised persons having access to the vessels containing the petroleum, and every person concerned in hawking the petroleum shall abstain from any act whatever which tends to cause fire or explosion, and is not reasonably necessary for the purpose of such hawking:

(9) No article or substance of an explosive or inflammable character other than petroleum, nor any article liable to cause or communicate fire or explosion, shall be in the carriage while such carriage is being used for the purpose of hawking petroleum:

In the event of any contravention of this section with reference to any petroleum, the petroleum, together with the vessels containing and the carriage conveying the same, shall be liable to be forfeited, and in addition thereto the licensee by whom or by whose servants the petroleum was being hawked shall be liable on summary conviction to a penalty not exceeding twenty pounds.

Provided that—

(1) Where some servant of the licensee or other person has in fact committed the offence, such servant or other person shall be liable to the same penalty as if he were the licensee:

(2) Where the licensee is charged with a contravention of this section, he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if the licensee proves to the satisfaction of the court that he had used due diligence to enforce the execution of this section, and that the said other person had committed the

(*p*) **Hawkers and pedlars.**—The enactments relating to hawkers and pedlars are the Pedlars Acts, 1871 and 1881 (34 & 35 Vict. c. 96 and 44 & 45 Vict. c. 45), and the Hawkers Act, 1888 (51 & 52 Vict. c. 33).

(*q*) **Petroleum to which Petroleum Act, 1871, applies.**—See secs. 3 and 6 of that Act and notes thereto, and sec. 2 of the Petroleum Act, 1879, *ante*. As to petroleum for light locomotives, see note (*b*), *ante*, p. 1114.



44 & 45 Vict.  
c. 67.

offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the licensee shall be exempt from any penalty.

Any petroleum other than that to which the Petroleum Act, 1871, applies while in any carriage used for the hawking of petroleum to which the Petroleum Act, 1871, applies, shall for the purposes of this section be deemed to be petroleum to which the Petroleum Act, 1871, applies.

Modification of  
conditions of  
licence under  
34 & 35 Vict.  
c. 105.

3. Any conditions annexed to a licence granted in pursuance of the Petroleum Act, 1871, shall, so far as they are inconsistent with this Act, be void, but save as aforesaid nothing in this Act shall affect the application to a licensee of the provisions of the Petroleum Act, 1871, or of any licence granted thereunder.

Power of  
constable as to  
prevention of  
offences.

4. Where a constable or any officer authorised by the local authority has reasonable cause to believe that a contravention of this Act is being committed in relation to any petroleum, he may seize and detain such petroleum and the vessels and carriage containing the same, until some court of summary jurisdiction has determined whether there was or not a contravention of this Act, and section thirteen of the Petroleum Act, 1871, shall apply to such constable and officer as if he were the person named in the warrant mentioned in that section, and as if the seizure were a seizure in pursuance of that section.

Saving of rights  
of municipal  
boroughs.

5. Nothing in this Act contained shall extend to authorise the hawking of petroleum within the limits of any municipal borough in which, by any lawful authority, such hawking shall have been or may hereafter be forbidden.

Definitions.

6. For the purposes of this Act—

The expression "carriage" includes any carriage, waggon, cart, truck, vehicle, or other means of conveyance by land, in whatever manner the same may be drawn or propelled; and

A person shall be deemed for the purposes of this Act to hawk petroleum if by himself or his servants he goes about carrying petroleum to sell, whether going from town to town or to other men's houses, or selling it in the streets of the place of his residence or otherwise, and whether with or without any horse or other beast bearing or drawing burden.

Short title and  
construction of  
Act.  
34 & 35 Vict.  
c. 105.  
42 & 43 Vict.  
c. 47.

7. This Act may be cited as the Petroleum (Hawkers) Act, 1881.

This Act shall be construed as one with the Petroleum Acts, 1871 and 1879, and together with those Acts may be cited as the Petroleum Acts, 1871 to 1881.

## PLACES OF RELIGIOUS WORSHIP.

## PLACES OF RELIGIOUS WORSHIP ACT, 1812 (a).

**52 Geo. 3, c. 155.** An Act to repeal certain Acts and amend other Acts relating to Religious Worship and Assemblies, and Persons teaching or preaching therein. [29th July, 1812]

1. [*Rep. by 36 & 37 Vict. c. 91. Statute Law Revision.*]

2. From and after the passing of this Act no congregation or assembly for religious worship of Protestants (b) (at which there shall be present more than twenty persons besides the immediate family and servants of the person in whose house or upon whose premises such meeting, congregation, or assembly shall be had) shall be permitted or allowed, unless and until the place of such meeting (c), if the same shall not have been duly certified and registered under any former Act or Acts of Parliament relating to registering places of religious worship, shall have been or shall be certified to the bishop of the diocese, or to the archdeacon of the archdeaconry, or to the *justices of the peace at the general or quarter sessions of the peace* (d) for the county, riding, division, city, town, or place in which such meeting shall be held; and all places of meeting which shall be so certified to the bishop's or archdeacon's court shall be returned by such court once in each year to the *quarter sessions* (d) of the county, riding, division, city, town, or place; and all places of meeting which shall be so certified to the quarter sessions of the peace shall be also returned once in each year to the bishop or archdeacon; and all such places shall be registered in the said bishop's or archdeacon's court respectively, and recorded at the said *general or quarter sessions* (d), the *registrar or clerk of the peace* (e) whereof respectively is hereby required to register and record the same; and the bishop or *registrar or clerk of the peace* (e) to whom any such place of meeting shall be certified under this Act shall give a certificate thereof to such person or persons as shall request or demand the same, for which there shall be no greater fee nor reward taken than two shillings and sixpence; and every person who shall knowingly permit or suffer any such congregation or assembly as aforesaid to meet in any place occupied by him until the same shall have been so certified as aforesaid shall forfeit for every time any such congregation or assembly shall meet contrary to the provisions of this Act a sum not exceeding twenty pounds nor

All places of religious worship to be certified and registered.

(a) **Short title and application of Act.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14). The duty of certifying and recording places of religious worship was transferred from quarter sessions to the county council by the Loc. Govt. Act, 1888, sec. 3 (xv), *ante*. Those sections which are summarised do not affect the powers or duties of that body.

(b) **Protestants.**—The provisions of this Act now extend also to Roman Catholics [see the Roman Catholic Charities Act, 1832 (2 & 3 Will. 4, c. 113), sec. 1], and to Jews [see the Religious Disabilities Act, 1846 (9 & 10 Vict. c. 59), sec. 2] in respect of their places of religious worship.

(c) **Place of meeting.**—The Places of Religious Worship Act, 1855 (18 & 19 Vict. c. 81), sec. 1, enacts that "nothing contained in the 52 Geo. 3, c. 155, shall apply to the congregations or assemblies hereinafter mentioned: (1) To any congregation or assembly for religious worship held in any parish or any ecclesiastical district, and conducted by an incumbent, or in case the incumbent is not resident, by the curate of such parish or district, or by any person authorised by them respectively. (2) To any congregation or assembly for religious worship meeting in a private dwelling house or on the premises belonging thereto. (3) To any congregation or assembly for religious worship meeting occasionally in any building or buildings not usually appropriated to purposes of religious worship."

Places of religious worship may now be certified and recorded under the Places of Religious Worship Registration Act, 1847 (18 & 19 Vict. c. 81), by the Registrar-General of Births, Deaths, and Marriages, through the superintendent registrar of the district in which such place is situate, and no such place so certified shall be certified or recorded by the county council. *Ib.*

(d) **Justices. Quarter sessions.**—Now the county council. Loc. Govt. Act, 1888, sec. 3 (xv), *ante*, vol. i.

(e) **Registrar or clerk of the peace.**—Now the clerk of the county council. Loc. Govt. Act, 1888, sec. 3 (xv) and sec. 83 (6), *ante*, vol. i.

52 Geo. 3,  
c. 155.

less than twenty shillings, at the discretion of the justices who shall convict for such offence.

3. [*Penalty on persons teaching or preaching without consent of occupiers.*]

4. [*Preachers in and persons resorting to religious assemblies, certified under this Act, exempt from same penalties as persons taking oaths under the Statute of William.*]

5. [*Declaration to be made by all preachers, &c., when thereto required by a magistrate.*]

6. [*No person to be compelled to go more than five miles to make declaration aforesaid.*]

7. [*Any person may require a justice of peace, &c., to tender the declaration under this Act.*]

8. [*Justices shall give the parties a certificate of having made such declaration.*]

9. [*Teachers having taken the oaths, &c., exempt from offices, and from the militia.*]

10. [*Penalty on producing false certificate of having made declaration.*]

11. [*Doors of religious assemblies not to be bolted or barred.*]

12. [*Penalty on disturbing religious assemblies.*]

Saving the  
ecclesiastical  
jurisdiction of  
the Church.

13. Provided always, that nothing in this Act contained shall affect or be construed to affect the celebration of divine service according to the rites and ceremonies of the United Church of England and Ireland, by ministers of the said Church, in any place hitherto used for such purpose, or being now or hereafter duly consecrated or licensed by any archbishop or bishop or other person lawfully authorised to consecrate or license the same, or to affect the jurisdiction of the archbishops or bishops or other persons exercising lawful authority in the Church of the United Kingdom over the said Church, according to the rules and discipline of the same, and to the laws and statutes of the realm, but such jurisdiction shall remain and continue as if this Act had not passed.

The Act not  
to extend to  
Quakers.

14. Provided also, that nothing in this Act contained shall extend or be construed to extend to the people usually called Quakers, nor to any meetings or assemblies for religious worship held or convened by such persons, or in any manner to alter or repeal or affect any Act, other than and except the Acts passed in the reign of King Charles the Second hereinbefore repealed relating to the people called Quakers, or relating to any assemblies or meetings for religious worship held by them.

Offenders to  
be convicted  
before two or  
more justices.

Forfeiture to  
be levied by  
distress.

15. Every person guilty of any offence for which any pecuniary penalty or forfeiture is imposed by this Act, in respect of which no special provision is made, shall and may be convicted thereof by information upon the oath of any one or more credible witness or witnesses before any two or more justices of the peace acting in and for the county, riding, city, or place wherein such offence shall be committed; and that all and every the pecuniary penalties or forfeitures which shall be incurred or become payable for any offence or offences against this Act shall and may be levied by distress under the hand and seal or hands and seals of two justices of the peace for the county, riding, city, or place in which any such offence or offences was or were committed, or where the forfeiture or forfeitures was or were incurred, and shall, when levied, be paid, one moiety to the informer, and the other moiety to the poor of the parish in which the offence was committed . . .

Appeal after  
conviction to  
general quarter  
sessions.

16. In case any person or persons who shall hereafter be convicted of any of the offences punishable by this Act shall conceive him, her, or themselves to be aggrieved by such conviction, then and in every such case it shall and may be lawful for such person or persons respectively, and he, she, or they shall or may appeal to the general or quarter sessions of the peace . . . ; and the said justices in their said general or quarter sessions shall and may and they are hereby authorised and empowered to proceed to the hearing and determination of the matter of such appeal, and to make such order therein, and to award such costs to be paid by and to either party, not exceeding forty shillings, as they in their discretion shall think fit.



17. No penalty or forfeiture shall be recoverable under this Act unless the same shall be sued for or the offence in respect of which the same is imposed is prosecuted before the justices of the peace or quarter sessions within six months after the offence shall have been committed; and no person who shall suffer any imprisonment for non-payment of any penalty shall thereafter be liable to the payment of such penalty or forfeiture.

52 Geo. 3,  
c. 155.

Penalties to be  
sued for and  
prosecuted  
within six  
months.

18. [*Repealed by Public Authorities Protection Act, 1893, post.*]

## PREVENTION OF CRUELTY TO CHILDREN.

PREVENTION OF CRUELTY TO CHILDREN ACT, 1894 (*a*).

**57 & 58 Vict. c. 41.** An Act to consolidate the Acts relating to the Prevention of Cruelty to, and Protection of, Children.

[17th August, 1894]

Restrictions on  
employment of  
children.

1. [*Punishment for cruelty to children.*]

2. If any person—

\* \* \* \* \*

(b) causes or procures any child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, or, having the custody, charge, or care of any such child, allows that child to be in any street or in any premises licensed for the sale of any intoxicating liquor, other than premises licensed according to law for public entertainments, for the purpose of singing, playing, or performing for profit, or offering anything for sale, between nine p.m. and six a.m.; or

\* \* \* \* \*

that person shall, on summary conviction, be liable, at the discretion of the court, to a fine not exceeding twenty-five pounds, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding three months.

Provided that—

\* \* \* \* \*

(ii) Any local authority (*b*) may, if they think it necessary or desirable so to do, from time to time by byelaw extend or restrict the hours mentioned in paragraph (*b*) of this section, either on every day or on any specified day or days of the week, and either as to the whole of their district or as to any specified area therein; and

\* \* \* \* \*

3. [*Licences for employment of children.*]

4. [*Power to constables to take offenders into custody.*]

5. [*Detention of child in place of safety (c).*]

6—9. [*Disposal and maintenance of child.*]

10. [*Warrant to search for child. Removal to place of safety (c).*]

11. [*Power of court as to habitual drunkards.*]

12—21. [*Evidence and procedure.*]

## Supplemental.

Provision as  
to byelaws.  
38 & 39 Vict.  
c. 55.

22. Every byelaw under this Act shall be subject—

(a) In England to section one hundred and eighty-four of the Public Health Act, 1875 (*d*), as if every local authority in England under this Act were a local authority within the meaning of that section, but with the substitution of Secretary of State for the Local Government Board; and

(b) In Scotland . . .

(c) In Ireland . . .

23. [*Provision as to parents and as to meaning of "custody, charge, or care."*]

24. [*Right of parent, &c., to administer punishment.*]

25. In this Act unless the context otherwise requires—

General  
definitions.

(a) **Application of Act.**—The sections set out apply to the Common Council of the City and the County Council. The omitted provisions do not affect the powers or duties of the local authorities.

(b) **Local authority**, i.e., the Common Council in the City of London and the County Council elsewhere in London. Sec. 25, *post*.

(c) **Place of safety** is defined by sec. 25, *post*.

(d) **Pub. Hlth. Act, 1875, sec. 184.**—Set out in sched. 1 of the Pub. Hlth. (London) Act, 1891, *ante*, vol. i.

The expression "local authority" means, as regards any borough in England, the council of the borough; as regards the City of London, the common council; as regards the county of London, the county council; and as regards any other place in England, the district council, and until a district council is established the urban or rural sanitary authority :

\* \* \* \* \*

The expression "street" includes any highway or other public place, whether a thoroughfare or not :

The expression "place of safety" includes any place certified by the local authority under this Act for the purposes of this Act, and also includes any workhouse or police station, or any hospital surgery, or place of the like kind :

\* \* \* \* \*

26. [*Application of Act to Scotland.*]

27. [*Application of Act to Ireland.*]

28.—(1) This Act may be cited as the Prevention of Cruelty to Children Act, 1894. Short title and repeal.

(2) The Prevention of Cruelty to, and Protection of, Children Act, 1889, and the Prevention of Cruelty to Children (Amendment) Act, 1894, are hereby repealed. 52 & 53 Vict. c. 44.  
57 & 58 Vict. c. 27.

(3) This Act shall come into operation on the twenty-first day of August one thousand eight hundred and ninety-four.

#### SCHEDULE.

[*Offences against children.*]



## PUBLIC AUTHORITIES PROTECTION.

## PUBLIC AUTHORITIES PROTECTION ACT, 1893.

**56 & 57 Vict. c. 61.** An Act to generalise and amend certain statutory provisions for the protection of persons acting in the execution of statutory and other public duties. [5th December, 1893]

Protection of persons acting in execution of statutory or other public duty.

1. Where after the commencement of this Act any action, prosecution, or other proceeding is commenced in the United Kingdom against any person (a) for any act done in pursuance, or execution, or intended execution of any Act of Parliament, or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such Act, duty, or authority (b), the following provisions shall have effect:

(a) The action, prosecution, or proceeding shall not lie or be instituted unless it is commenced within six months next after the act, neglect, or default complained of, or, in case of a continuance of injury or damage, within six months next after the ceasing thereof (c):

(a) **Person.**—"The expression 'person,' shall, unless a contrary intention appears, include any body of persons, corporate or unincorporate." Interpretation Act, 1889 (52 & 53 Vict. c. 63), sec. 19. "Words in the singular shall include words in the plural." *Ib.*, sec. 1 (b).

A builder, employed by a building owner, who negligently underpinned a party wall, was held not to come within the words "other person" within the meaning of the Metropolitan Building Act, 1855 (repealed), sec. 108 of which required notice of action to be given to "any district surveyor or other person." *Williams v. Golding*, L. R. 1 C. P. 69; 35 L. J. C. P. 1.

(b) **Act done in pursuance of statutory authority.**—The following cases were decided under Acts which required previous notice of action to be given to the authorities, &c.

An action for damages brought against a contractor employed to dig wells under the direction of the surveyor of a local board for negligently leaving one of the wells without a light at night was held to be an action in respect of something done or intended to be done in pursuance of the Pub. Hlth. Act, 1848, sec. 139. *Newton v. Ellis*, 5 E. & B. 115; 24 L. J. Q. B. 337. Where an inspector, acting under the direction of a district board, authorised the defendant to erect a urinal against the plaintiff's wall, which he did, the defendant was held to have done something under the powers of the Met. Man. Acts. *Chamber v. Reid*, 30 J. P. 231; 13 L. T. (N. S.) 703. But not so a person who, in connecting a drain with a sewer, in compliance with a notice from a district board, committed a trespass on adjoining land. *Doust v. Slater*, 10 B. & S. 400; 38 L. J. Q. B. 159. Where, owing to the negligence of a contractor in enlarging a sewer for the Met. Bd. Wks., the adjoining premises were damaged, it was held that the injury was caused by acts "done or intended to be done" under the powers of the same Acts. *Poulsum v. Thirst*, L. R. 2 C. P. 449; 36 L. J. C. P. 225. But where the servant of a contractor under a district board left a horse unattended, and it ran away and damaged some railings, it was held that the thing complained of was not "done or intended to be done" under the powers of the same Acts. *Whatman v. Pearson*, L. R. 3 C. P. 422; 37 L. J. C. P. 156. The supply by a vestry of a defective water cart, from which the driver was thrown and injured, was held to be a thing "done or intended to be done" under the powers of those Acts. *Edwards v. St. Mary Islington*, 22 Q. B. D. 338; 58 L. J. Q. B. 165. Surveyors of highways who received payment of an assessment upon a highway rate which was void were held to have done something "in pursuance of or under the authority of" the Act within the meaning of the repealed section 109 of the Highway Act, 1835 (5 & 6 Vict. c. 50). *Selmes v. Judge*, L. R. 6 Q. B. 724; 40 L. J. Q. B. 287.

Where a local board left unfenced a goit adjoining a public footpath it was held that their default, if any, was a thing "done or intended to be done" under the Pub. Hlth. Act, 1848. *Wilson v. Halifax (Mayor, &c.)*, L. R. 3 Ex. 114; 37 L. J. Ex. 44. The omission of a local board to buoy anchors which they had attached to a floating stage was held to be an act "done or intended to be done" under the powers of the same Act. *Jolliffe v. Wallasey Loc. Bd.*, L. R. 9 C. P. 62; 43 L. J. C. P. 41. The omission to repair the handrail of a bridge was held to be something done "in pursuance or under the authority of" the Highway Act, 1835. *Holland v. Northwich Highway Bd.*, 40 J. P. 517; 34 L. T. (N. S.) 137. See also *Ongley v. Chatham Loc. Bd.*, 4 T. L. R. 6; *Lewis v. Swansea Corporation* (1887), W. N. 234.

(c) **Within six months next after**, i.e., calendar months [Interpretation Act, 1889]

- (b) Wherever in any such action a judgment is obtained by the defendant, it shall carry costs (d) to be taxed as between solicitor and client : 56 & 57 Vict. c. 61.
- (c) Where the proceeding is an action for damages, tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after the tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after the tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of the tender or payment; but this provision shall not affect costs on any injunction in the action :
- (d) If, in the opinion of the court, the plaintiff has not given the defendant a sufficient opportunity of tendering amends before the commencement of the proceeding the court may award to the defendant costs to be taxed as between solicitor and client.

This section shall not affect any proceedings by any department of the Government against any local authority or officer of a local authority.

2. There shall be repealed as to the United Kingdom so much of any public general Act as enacts that in any proceeding to which this Act applies— Repeal.

- (a) the proceeding is to be commenced in any particular place; or
  - (b) the proceeding is to be commenced within any particular time; or
  - (c) notice of action is to be given; or
  - (d) the defendant is to be entitled to any particular kind or amount of costs, or the plaintiff is to be deprived of costs in any specified event; or
  - (e) the defendant may plead the general issue;
- and in particular there shall be so repealed the enactments specified in the schedule to this Act to the extent in that schedule mentioned.

This repeal shall not affect any proceeding pending at the commencement of this Act.

(52 & 53 Vict. c. 63)], exclusive of the date of the act or omission complained of, but inclusive of the date of commencing proceedings. *Radcliffe v. Bartholomew* and *Robinson v. Waddington*, ante, vol. i., p. 203.

Where, in digging a sewer, the walls of a house were cracked, it was held that the right of action was limited to six months from the date on which the crack was occasioned. *Lloyd v. Wigney*, 4 M. & P. 222; 6 Bing. 489. But where the foundations of a house were injured, but the injury was not apparent at the time, the cause of action was held to accrue when the damage first exhibited itself. *Backhouse v. Bonomi*, 9 H. L. Cas. 503; 34 L. J. Q. B. 181. Where a local authority improperly filled in an excavation, in consequence of which subsidence of the neighbourhood took place, and went on continuously, it was held, on the authority of *Darley Main Colliery Co. v. Mitchell* (11 App. Cas. 127; 55 L. J. Q. B. 529), that each further subsidence gave rise to a fresh cause of action, notwithstanding that more than six months had elapsed since the first subsidence took place. *Crumbie v. WallSEND Loc. Bd.* (1891), 1 Q. B. 503; 60 L. J. Q. B. 392. Where a road authority negligently made and continued improper catchpits for water, so that the water from time to time flowed over and injured the adjoining land, it was held that a fresh cause of action arose each time the water overflowed. *Whitehouse v. Fellowes*, 10 C. B. (N.S.) 765; 30 L. J. C. P. 306. Where the Met. Bd. Wks., in constructing a sewer, damaged some neighbouring property, and, on the matter being by consent referred to arbitration, an award was made against them, it was held that the provisions of the repealed section 106 of the Met. Man. Amend. Act, 1862, as to notice of action, did not apply to a claim for compensation for injury done to property under such circumstances; and that, even if they did apply, the board could not plead the statute as a bar to an action to recover the amount after having consented to submit the matter to arbitration. *Delany v. Met. Bd. Wks.*, L. R. 3 C. P. 111; 37 L. J. C. P. 59. Where the plaintiffs, under the mistaken belief that they were liable, paid to a local board the costs of work executed upon a street by the board under the Pub. Hlth. Act, 1875 (38 & 39 Vict. c. 55), it was held that an action could not be brought to recover back the money more than six months after it was paid, as the claim was for something "done or intended to be done under the provisions" of that Act within the meaning of sec. 264 (repealed). *Midland Ry. Co. v. Withington Loc. Bd.*, 11 Q. B. D. 788; 52 L. J. Q. B. 689.

(d) **Costs.**—Subject to the Supreme Court of Judicature Act, and the rules of court made thereunder, and to the express provisions of any statute, the costs of all proceedings in the Supreme Court are in the discretion of the court or judge. Judicature Act, 1890 (53 & 54 Vict. c. 44), sec. 5. Rules of the Supreme Court, 1896, O. 65, r. 1.

56 & 57 Vict.  
c. 61.

3. [*Saving as to Scotland.*]

4. [*Commencement of Act : 1st January, 1894.*]

Short title.

5. This Act may be cited as the Public Authorities Protection Act, 1893.

# SCHEDULE.

Section 2.

## ENACTMENTS REPEALED.

| Session and Chapter.                  | Title.                                                                                              |
|---------------------------------------|-----------------------------------------------------------------------------------------------------|
| *            *                        | *            *            *            *            *                                               |
| 22 & 23 Vict. c. 66.....<br>in part.  | The Sale Gas Act, 1859—<br>in part ; namely—<br>Sections twenty-seven and twenty-eight.             |
| *            *                        | *            *            *            *            *                                               |
| 25 & 26 Vict. c. 102.....<br>in part. | The Metropolis Management Amendment Act, 1862—<br>in part ; namely—<br>Section one hundred and six. |
| *            *                        | *            *            *            *            *                                               |
| 53 & 54 Vict. c. 5.....<br>in part.   | The Lunacy Act, 1890—<br>in part ; namely—<br>Section three hundred and thirty-one.                 |
| *            *                        | *            *            *            *            *                                               |



## PUBLIC BODIES CORRUPT PRACTICES.

## PUBLIC BODIES CORRUPT PRACTICES ACT, 1889.

**52 & 53 Vict. c. 69.** An Act for the more effectual Prevention and Punishment of Bribery and Corruption of and by Members, Officers, or Servants of Corporations, Councils, Boards, Commissions, or other Public Bodies. [30th August, 1889]

Whereas it is expedient more effectually to provide for the prevention and punishment of bribery and corruption of and by members, officers, or servants of corporations, councils, boards, commissions, and other public bodies :

Be it therefore enacted . . .

**1.—(1)** Every person (*a*) who shall by himself or by or in conjunction with any other person, corruptly solicit or receive, or agree to receive, for himself, or for any other person, any gift, loan, fee, reward, or advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer, or servant of a public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the said public body is concerned, shall be guilty of a misdemeanour.

Corruption in office a misdemeanour.

**(2)** Every person who shall by himself or by or in conjunction with any other person, corruptly give, promise, or offer any gift, loan, fee, reward or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer, or servant of any public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body as aforesaid is concerned, shall be guilty of a misdemeanour.

**2.** Any person on conviction for offending as aforesaid shall, at the discretion of the court before which he is convicted—

Penalty for offences.

- (a) be liable to be imprisoned for any period not exceeding two years, with or without hard labour, or to pay a fine not exceeding five hundred pounds, or to both such imprisonment and such fine; and
- (b) in addition be liable to be ordered to pay to such body, and in such manner as the court directs, the amount or value of any gift, loan, fee, or reward received by him or any part thereof; and
- (c) be liable to be adjudged incapable of being elected or appointed to any public office for seven years from the date of his conviction, and to forfeit any such office held by him at the time of his conviction; and
- d) in the event of a second conviction for a like offence he shall, in addition to the foregoing penalties, be liable to be adjudged to be for ever incapable of holding any public office, and to be incapable for seven years of being registered as an elector, or voting at an election either of members to serve in Parliament or of members of any public body, and the enactments for preventing the voting and registration of persons declared by reason of corrupt practices to be incapable of voting shall apply to a person adjudged in pursuance of this section to be incapable of voting (*b*); and

(a) **Every person.**—In a case at the central criminal court the Recorder, Sir Charles Hall, Q.C., directed the jury that any person who tried to get a sum of money on the pretext that he would either abstain himself or induce some one else to abstain from giving evidence before a public body committed a misdemeanour within the meaning of the Act, whether he was a servant or not of such public body. *Reg. v. Edwards*, 59 J. P. 88.

(b) **Enactments for preventing voting and registration.**—The Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), sec. 39. requires the registration officer in every parliamentary county and borough to annually make out a list of all persons who, though otherwise qualified, are not capable of voting by reason of having been found guilty of a corrupt and illegal practice, on conviction or by the report of an election court, at a parliamentary or municipal election, or at an election to a public office. This list the registration officer is required to send, together with his precept, to the overseers, who must publish the list with the list of voters, and in the

52 & 53 Vict.  
c. 69.

(e) if such person is an officer or servant in the employ of any public body upon such conviction he shall, at the discretion of the court, be liable to forfeit his right and claim to any compensation or pension to which he would otherwise have been entitled.

Savings.

3.—(1) Where an offence under this Act is also punishable under any other enactment, or at common law, such offence may be prosecuted and punished either under this Act, or under the other enactment, or at common law, but so that no person shall be punished twice for the same offence.

(2) A person shall not be exempt from punishment under this Act by reason of the invalidity of the appointment or election of a person to a public office.

Restriction on  
prosecution.

4.—(1) A prosecution for an offence under this Act shall not be instituted except by or with the consent of the Attorney-General (c).

(2) In this section the expression "Attorney-General" means the Attorney-General or Solicitor-General for England, and as respects Scotland . . .

Expenses of  
prosecution.

5. The expenses of the prosecution of an offence against this Act shall be defrayed in like manner as in the case of a felony (d).

Jurisdiction of  
quarter  
sessions.  
Interpretation.

6. A court of general or quarter sessions shall in England have jurisdiction to inquire of, hear, and determine an offence under this Act.

7. In this Act—

The expression "public body" means any council of a county or county of a city or town, any council of a municipal borough, also any board, commissioners, select vestry, or other body which has power to act under and for the purposes of any Act relating to local government, or the public health, or to poor law or otherwise to administer money raised by rates in pursuance of any public general Act, but does not include any public body as above defined existing elsewhere than in the United Kingdom :

The expression "public office" means any office or employment of a person as a member, officer, or servant of such public body :

The expression "person" includes a body of persons, corporate or unincorporate :

The expression "advantage" includes any office or dignity, and any forbearance to demand any money or money's worth or valuable thing, and includes any aid, vote, consent, or influence, or pretended aid, vote, consent, or influence, and also includes any promise or procurement of or agreement or endeavour to procure, or the holding out of any expectation of any gift, loan, fee, reward, or advantage, as before defined.

8. [*Application of Act to Scotland.*]

9. [*The Criminal Law and Procedure (Ireland) Act, 1887, not to apply.*]

10. [*Short title : The Public Bodies Corrupt Practices Act, 1889.*]

case of every person in the corrupt and illegal practices list omit his name from the list of persons entitled to vote, or, as the circumstances require, add "objected" before his name in the list of claimants or copy of the register published by them. See also the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, secs. 22—24, *ante*, vol. i.

(c) **Consent of Attorney-General.**—As to the discretion of the Attorney-General to give or refuse his consent, see *Hurter, Ex parte*, 47 J. P. 724.

(d) **Expenses of prosecution.**—In counties the expenses of prosecutions for felony are, on the order of the court, payable by the county treasurer out of the county funds. Criminal Law Act, 1826 (7 Geo. 4, c. 64), secs. 22 and 24 ; Prosecutions Expenses Act, 1866 (29 & 30 Vict. c. 47) ; and Criminal Law Amend. Act, 1867 (30 & 31 Vict. c. 35), sec. 5.

## PUBLIC LIBRARIES.

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 38 & 39 Vict. c. 55, secs. 233, 234, 236—339 ("Public Health Act, 1875") 1142

## PUBLIC LIBRARIES ACT, 1892.

55 & 56 Vict. c. 53. An Act to consolidate and amend the Law  
 relating to Public Libraries. [27th June, 1892]

*Adoption of Act and Constitution of Library Authority.*

1.—(1) This Act shall extend to every library district for which it is adopted. Extent and application of Act.  
 (2) For the purposes of this Act and subject to the provisions thereof every urban district and every parish in England and Wales which is not within an urban district shall be a library district.  
 (3) This Act shall have effect as regards any parish which is partly within and partly without an urban district as if the part which is without the district were a separate parish, and the overseers for the parish shall be deemed for the purposes of this Act to be the overseers for that part.

2.—(1) A rate or addition to a rate shall not be levied for the purposes of this Act for any one financial year in any library district to an amount exceeding one penny in the pound (*a*). Limitations on expenditure for purposes of Act.  
 (2) This Act may be adopted for any library district subject to a condition that the maximum rate or addition to a rate to be levied for the purposes of this Act in the district or in any defined portion of the district in any one financial year shall not exceed one halfpenny or shall not exceed three farthings in the pound, but such limitation if fixed at one halfpenny may be subsequently raised to three farthings, or altogether removed, or where it is for the time being fixed at three farthings may be removed.

3. With respect to— Proceedings for adoption of Act.  
 (a) the adoption of this Act for any library district; and  
 (b) the fixing, raising, and removing of any limitation on the maximum rate to be levied for the purposes of this Act; and  
 (c) the ascertaining of the opinion of the voters (*b*) with respect to any matter for which their consent is required under this Act;  
 the following provisions shall have effect; that is to say—

(1) Any ten or more voters in the library district may address a requisition in writing to the authority hereafter in this section mentioned requiring that authority to ascertain the opinion of the voters in the district with respect to the question or questions stated in the requisition: Provided that where the library district is a municipal borough the requisition may be made by the council of the borough:  
 (2) On receipt of the requisition the said authority shall proceed to ascertain by means of voting papers the opinion of the voters with respect to the said question or questions; but the said authority shall not ascertain the opinion of the voters on any question with respect to the limitation of the rate unless required to do so by the requisition, or with respect to any limitation of the rate other than the limitations specified in this Act:  
 (3) The procedure for ascertaining the opinion of the voters shall be in accordance with the regulations contained in the first schedule to this Act; and those regulations shall have effect as if they were enacted in the body of this Act:

(a) **One penny in the pound.**—The occupier is assessable at a rate not exceeding one penny in the pound upon the rateable value of the property occupied by him, and for which he is liable to pay the rates; and he cannot be called upon to pay a higher rate because other property in the district is unoccupied and therefore unfruitful. *Brown, Ex parte, In re Liverpool Corporation*, 31 L. J. M. C. 108; 26 J. P. 389. As to the construction of the limit imposed in parishes where there is agricultural land, see the Agricultural Rates Act, 1896, sec. 8, *post*, tit. "*Rating*."

(b) **Voters**, i.e., in London, the county electors. See sec. 27, *post*.



55 & 56 Vict.  
c. 53.

- (4) Every question so submitted to the voters shall be decided by the majority of answers to that question recorded on the valid voting papers, and where the majority of those answers are in favour of the adoption of this Act the same shall forthwith, on the result of the poll being made public, be deemed to be adopted :
- (5) Where the opinion of the voters in any library district is ascertained upon the question as to the adoption of this Act, or upon a question as to the limitation of the rate, no further proceeding shall be taken for ascertaining the opinion of the voters until the expiration of one year at least from the day when the opinion of the voters was last ascertained, that is to say, the day on which the voting papers were collected :
- (6) The authority to ascertain the opinion of the voters for the purposes of this section shall be in a municipal borough the mayor, and in any other urban district the chairman of the urban authority, and in a parish the overseers.

Act when  
adopted to  
be executed  
by library  
authority.

4. This Act when adopted for any library district shall be carried into execution, if the library district is an urban district, by the urban authority, and, if it is a parish, by the commissioners appointed under this Act(c); and any such authority or commissioners executing this Act are hereinafter referred to as a "library authority."

Constitution of  
commissioners  
for executing  
Act in parish.

5.—(1) Where this Act is adopted for any parish the vestry shall forthwith appoint not less than three nor more than nine voters in the parish to be commissioners (c) for carrying this Act into execution.

(2) The commissioners shall be a body corporate by the name of "The commissioners for public libraries and museums for the parish of \_\_\_\_\_, in the county of \_\_\_\_\_," and shall have perpetual succession and a common seal, with power to acquire and hold lands for the purposes of this Act, without any licence in mortmain.

Rotation of  
commissioners.

6.—(1) The commissioners (c) shall, as soon as conveniently may be after their appointment, divide themselves by agreement, or in default of agreement by ballot, into three classes, one third or as nearly as may be one third of them being in each class.

(2) The offices of the first class shall be vacated at the expiration one year, the offices of the second class at the expiration of two years, and the offices of the third class at the expiration of three years from the time of their appointment.

(3) The offices of vacating commissioners shall be filled by an equal number of new commissioners to be appointed by the vestry from among the voters in the parish; and every newly elected commissioner shall hold his office for the term of three years from the date when the office became vacant, and no longer, unless re-elected; but a person, on ceasing to be a commissioner, shall, unless disqualified, be re-eligible.

(4) Any casual vacancy among the commissioners, whether arising by death, resignation, incapacity, or otherwise, shall as soon as may be after the occurrence thereof be filled up by the vestry; but the term of office of a commissioner appointed to fill up a casual vacancy shall expire at the date at which the term of office of the commissioner in whose place he is appointed would have expired.

Meeting of  
commissioners.

7. The commissioners (c) shall meet at least once in every month, and at such other times as they think fit, at some convenient place; and any one commissioner may summon a special meeting by giving three clear days' notice in writing to each commissioner, specifying therein the purpose for which the meeting is called. Business shall not be transacted at any meeting of the commissioners unless at least two of them are present.

Proceedings of  
commissioners  
to be recorded.

8. All orders and proceedings of the commissioners (c) shall be entered in books to be kept for that purpose, and shall be signed by the commissioners or any two of them; and all such orders and proceedings so entered, and purporting to be so signed, shall be deemed to be original orders and proceedings, and such books may be produced and read as evidence of all such orders and proceedings upon any judicial proceeding.

(c) **Commissioners.**—All the powers, duties, and liabilities of the commissioners may now, on the application of any London sanitary authority, be conferred by the Loc. Govt. Bd. on such authority. Loc. Govt. Act, 1894, secs. 7 and 33, *ante*, vol. i.

9.—(1) Where this Act is adopted for any two or more neighbouring parishes, the vestries of those parishes may by agreement combine for any period in carrying this Act into execution, and the expenses of carrying this Act into execution shall be defrayed by the parishes in such proportions as may be agreed on by the vestries.

(2) The vestry of each of the said parishes shall appoint not more than six commissioners (*d*) in accordance with the provisions of this Act, and the commissioners so appointed for the several parishes shall form one body of commissioners, and shall act accordingly in the execution of this Act.

10. Where the voters in a parish adjoining or near any library district for which either this Act has been adopted, or the adoption thereof is contemplated, consent to such parish being annexed to the said district, such parish, subject to the consent of the library authority of the said district being also given, shall be annexed to and form part of that district for the purposes of this Act; the vestry of such parish shall appoint not more than six commissioners (*d*) in accordance with the provisions of this Act, and the commissioners so from time to time appointed shall during their respective terms of office be deemed for all the purposes of this Act to be members of the library authority of the said district.

55 & 56 Vict.  
c. 53.

Power to  
vestries of  
neighbouring  
parishes to  
combine.

Power to annex  
parish to  
adjoining  
district.

#### *Execution of Act.*

11.—(1) The library authority of any library district for which this Act has been adopted may, subject to the provisions of this Act, provide all or any of the following institutions, namely, public libraries, public museums, schools for science, art galleries, and schools for art, and for that purpose may purchase and hire land, and erect, take down, rebuild, alter, repair, and extend buildings, and fit up, furnish, and supply the same with all requisite furniture, fittings, and conveniences (*e*).

Provision  
of libraries,  
museums,  
and schools  
of science  
and art.

(2) Where any of the institutions mentioned in this section has been established either before or after the passing of this Act by any library authority under this Act or the Acts hereby repealed, that authority may establish in connexion therewith any other of the said institutions without further proceedings being taken with respect to the adoption of this Act.

(3) No charge shall be made for admission to a library or museum provided under this Act for any library district, or, in the case of a lending library, for the use thereof by the inhabitants of the district; but the library authority, if they think fit, may grant the use of a lending library to persons not being inhabitants of the district, either gratuitously or for payment.

12.—(1) For the purpose of the purchase of land under this Act by a library authority the Lands Clauses Acts (*f*), with the exception of the provisions relating to the purchase of land otherwise than by agreement, shall be incorporated with this Act.

Provision as  
to acquisition  
and disposal  
of land.

(2) The library authority of any library district which is an urban district may with the sanction of the Local Government Board appropriate for the purposes of this Act any land which is vested in that authority.

(3) A library authority may with the sanction of the Local Government Board sell any land vested in them for the purposes of this Act, or exchange any such land for other land better adapted for those purposes, and the money arising from the sale or received by way of equality of exchange, shall be applied in or towards the purchase of other land better adapted for the said purposes, or may be applied for any purpose for which capital money may be applied, and which is approved by the Local Government Board.

(4) A library authority may let a house or building, or any part thereof, or any land vested in them for the purposes of the Act, which is not at the time of such letting required for those purposes, and shall apply the rents and profits thereof for the purposes of this Act.

(*d*) **Commissioners.**—See note (*e*) on p. 1134.

(*e*) **Exemption from taxes.**—The exemption from income tax granted by the Income Tax Act, 1842 (5 & 6 Vict. c. 35), sec. 61, No. vi., to any building "the property of any literary institution" includes a public library established under this Act. *Manchester (Mayor, &c., of) v. McAdam* (1896), A. C. 500; 65 L. J. Q. B. 672.

(*f*) **Lands Clauses Acts.**—As to these Acts, see Cripps and other works on the "Law of Compensation." The subject is too lengthy for satisfactory treatment in this book.

55 & 56 Vict.  
c. 53.

Power to grant  
charity land  
for purposes  
of this Act.

Vesting of  
property in  
library  
authority.  
Management  
of libraries,  
&c. by library  
authority or  
committee.

Power to  
library  
authorities  
to make  
agreements  
for use of  
library.

Power to  
library  
authority  
to accept  
parliamentary  
grant.

**13.**—(1) Any person holding land for ecclesiastical, parochial, or charitable purposes may, subject as hereinafter provided, grant, or convey, by way of gift, sale, or exchange, for any of the purposes of this Act any quantity of such land, not exceeding in any one case one acre, in any manner vested in such person.

(2) Provided that—

- (a) ecclesiastical property shall not be granted or conveyed for those purposes without the consent of the Ecclesiastical Commissioners; and
  - (b) parochial property shall not be so granted or conveyed save by the board of guardians of the poor law union comprising the parish to which the property belongs, or without the consent of the Local Government Board; and
  - (c) other charitable property shall not be so granted or conveyed without the consent of the Charity Commissioners; and
  - (d) the land taken in exchange or the money received for such sale shall be held on the same trusts as the land exchanged or sold; and
  - (e) land situated in the administrative county of London, or in any urban district containing according to the last published census for the time being over twenty thousand inhabitants, which is held on trusts to be preserved as an open space, or on trusts which prohibit building thereon, shall not be granted or conveyed for the purposes of this Act.
- (3) Any land granted or conveyed to any library authority under this section may be held by that authority without any licence in mortmain.

**14.** All land appropriated, purchased, or rented, and all other real and personal property presented to or purchased or acquired for any library, museum, art gallery, or school under this Act shall be vested in the library authority.

**15.**—(1) The general management, regulation, and control of every library, museum, art gallery, and school provided under this Act shall be vested in and exercised by the library authority, and that authority may provide therein books, newspapers, maps, and specimens of art and science, and cause the same to be bound and repaired when necessary.

(2) The library authority may also appoint salaried officers and servants, and dismiss them, and make regulations for the safety and use of every library, museum, gallery, and school under their control, and for the admission of the public thereto.

(3) Provided that a library authority being an urban authority may if they think fit appoint a committee and delegate to it all or any of their powers and duties under this section, and the said committee shall to the extent of such delegation be deemed to be the library authority. Persons appointed to be members of the committee need not be members of the urban authority.

**16.**—(1) The commissioners (*g*) separately appointed for any two or more parishes for which this Act has been adopted may with the consent of the voters (*h*) in each of those parishes agree to share in such proportions and for such period as may be determined by the agreement the cost of the purchase, erection, repair, and maintenance of any library building situate in one of those parishes, and also the cost of the purchase of books and newspapers for such library, and all other expenses connected with the same.

(2) The library authority of any library district may with the consent of the voters (*h*) in the district and of the Charity Commissioners make the like agreement with the governing body of any library established or maintained out of funds subject to the jurisdiction of the Charity Commissioners, and situate in or near the library district, and, in case of inability, objection, or failure on the part of the governing body to enter into such agreement, the Charity Commissioners may, if they think fit, become party to the agreement on behalf of the governing body.

(3) This section shall apply, with the necessary modifications, to a museum, school for science, art gallery, or school for art in like manner as to a library.

**17.** Where a library authority accepts a grant out of money provided by Parliament from the Department of Science and Art towards the purchase of the site, or the erection, enlargement, or repair, of any school for science and art, or school for science, or school for art, or of the residence of a teacher in any such

(*g*) Commissioners.—See sec. 4 and note thereto, *ante*.

(*h*) Voters, i.e., in London, the county electors. Sec. 27, *post*.



school, or towards the furnishing of any such school, that authority may accept the grant upon the conditions prescribed by the Department of Science and Art, and may execute any instruments required by that department for carrying into effect those conditions, and upon payment of the grant shall be bound by such conditions and instruments, and have power and be bound to fulfil and observe the same.

55 & 56 Vict.  
c. 53.

*Financial Provisions.*

18.—(1) The expenses incurred in a library district in and incidental to the execution of this Act, including all expenses in connexion with ascertaining the opinion of the voters in the district, may be defrayed,—

Expenses of  
library  
authority how  
defrayed.

- (a) where the library district is a municipal borough . . .
- (b) where the library district is an urban district other than a borough . . .
- (c) where the library district is a parish, out of a rate to be raised with and as part of the poor rate, subject, however, to this qualification, that every person assessed to the poor rate in the said parish in respect of lands used as arable, meadow, or pasture ground only, or as woodlands or market gardens, or nursery grounds, shall be entitled to an allowance of two thirds of the sum assessed upon him in respect of those lands for the purposes of this Act.

(2) Where the library district is a parish, and is not combined with any other parish for the execution of this Act, then—

- (i) such amount only shall be raised out of a rate for the purposes of this Act as is from time to time sanctioned by the vestry of the parish; and
- (ii) the vestry to be called for the purpose of sanctioning the amount shall be convened in the manner usual in the parish; and
- (iii) the amount for the time being proposed to be raised for the purposes of this Act shall be expressed in the notice convening the vestry, and (if sanctioned) shall be paid according to the order of the vestry to such person as may be appointed by the library authority to receive it; and
- (iv) in the notices requiring the payment of the rate there shall be stated the proportion which the amount to be thereby raised for the purposes of this Act bears to the total amount of the rate.

(3) Where a parish or a part of a parish is annexed in pursuance of this Act to any library district, so much of the said expenses as is chargeable to such parish or part shall be defrayed in like manner as if such parish or part were a separate library district, but the sanction of the vestry shall not be required for raising the sums from time to time due from the parish for meeting those expenses.

19.—(1) Every library authority, with the sanction of the Local Government Board, and in the case of a library authority being commissioners (i) appointed for a parish, with the sanction also of the vestry of such parish, may borrow money for the purposes of this Act on the security of any fund or rate applicable for those purposes.

Borrowing  
by library  
authority.

(2) Sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine, both inclusive, of the Public Health Act, 1875, relating to borrowing by a local authority shall apply, with the necessary modifications, to all money borrowed by any library authority for the purposes of this Act, as if the library authority were an urban authority, and as if references to this Act were substituted in those sections and in the forms therein mentioned for references to the Public Health Act, 1875 (k).

38 & 39 Vict.  
c. 55

(3) The Public Works Loan Commissioners may in manner provided by the Public Works Loans Act, 1875, lend any money which may be borrowed by a library authority for the purposes of this Act.

20.—(1) Separate accounts shall be kept of the receipts and expenditure under this Act of every library authority and their officers, and those accounts shall be audited in like manner and with the like incidents and consequences, in the case of a library authority being an urban authority, and of their officers, as the accounts of the receipts and expenditure of that authority and their officers under the Public Health Acts.

Accounts and  
audit.

(i) *Commissioners*.—See sec. 4 and note thereto, *ante*.

(k) *Pub. Hlth. Act, 1875*.—See secs. 233, 234, and 236 to 239, *post*, p. 1142.

55 & 56 Vict.  
c. 53.

(2) The accounts of the receipts and expenditure of a library authority being commissioners (*l*) appointed under this Act, and of their officers, shall be audited yearly by a district auditor in like manner and with the like incidents and consequences as in the case of an audit under the Acts relating to the relief of the poor, and those commissioners shall be a local authority within the meaning of the District Auditors Act, 1879 (*m*).

42 & 43 Vict.  
c. 6.

(3) The accounts of the receipts and expenditure under this Act of any library authority other than the council of a municipal borough shall be open at all reasonable times to the inspection, free of charge, of any ratepayer in the library district, and any such ratepayer may without charge make copies of and extracts from those accounts; and if any library authority or any person being a member thereof or employed by them and having the custody of the accounts fails to allow the accounts to be inspected, or copies or extracts to be made, as required by this section, such authority or person shall for each offence be liable on summary conviction in manner provided by the Summary Jurisdiction Acts to a fine not exceeding five pounds.

*Provisions affecting London only.*

Application of  
Act to City of  
London.

**21.**—(1) The City of London shall be a library district, and on this Act being adopted for the City, the common council shall be the library authority.

(2) The opinion of the voters in the City of London with respect to any question under this Act shall be ascertained by the mayor on the requisition of the common council.

(3) The expenses incurred in the City of London in and incidental to the execution of this Act, including all expenses in connexion with ascertaining the opinion of the voters, shall be defrayed out of the consolidated rate levied by the commissioners of sewers, or a separate rate to be made, assessed, and levied by those commissioners in like manner as the consolidated rate.

(4) So much of this Act as limits the rate or addition to a rate to be levied in any library district for any one financial year to one penny in the pound shall not extend to the City of London.

Power for  
district in  
London to  
adopt Act.  
18 & 19 Vict.  
c. 120.

**22.** Every district mentioned in schedule B. to the Metropolis Management Act, 1855 (*n*), as amended by any subsequent Acts, shall be a library district, and the provisions of this Act shall apply accordingly with the following modifications:—

(1) The opinion of the voters (*o*) in any such district with respect to any question under this Act shall be ascertained by the district board on the requisition in writing of any ten or more of such voters:

(2) The library authority for such district shall be commissioners (*l*) appointed by the district board, and the provisions of this Act relating to commissioners appointed for a parish shall apply with the substitution of “district” for “parish” and of “district board” for “vestry”:

(3) The expenses incurred in any such district in and incidental to the execution of this Act, including all expenses in connexion with ascertaining the opinion of the voters, shall to such amount as is sanctioned by the district board be defrayed by that board in like manner as if they had been incurred for the general purposes of the Metropolis Management Act, 1855 (*n*), and the sums from time to time required for defraying those expenses, to the extent so sanctioned, shall be paid by the district board to any person appointed by the commissioners to receive the same; but nothing in this enactment shall enable a district board to levy for the purposes of this Act any greater sum in any financial year than the amount produced by a rate of one penny in the pound (*p*), or any less rate specially fixed for the purpose of this Act in the district:

(4) The enactments authorising two or more neighbouring parishes to combine in carrying this Act into execution shall have effect as if any such district

(*l*) **Commissioners.**—See sec. 4 and note thereto, *ante*.

(*m*) **District Auditors Act, 1879.**—*Ante*, tit. “Audit.”

(*n*) **Met. Man. Act, 1855.**—*Ante*, vol. i.

(*o*) **Voters**, i.e., in London, the county electors. Sec. 27, *post*.

(*p*) **One penny in the pound.**—See note to sec. 2, *ante*.

were included in the term "parish" and the district board of such district in the term "vestry": 55 & 56 Vict. c. 53.

- (5) Where a parish in any such district has adopted the Acts hereby repealed or any of them, or hereafter adopts this Act, it shall be treated in all respects for the purposes of this Act as if it were outside the district, and, in particular—
- (a) a person shall not, by reason of being a voter in the parish, be accounted for the purposes of this section as a voter in the district; and
  - (b) a representative of the parish on the district board shall not take part in any proceeding of the board under this section; and
  - (c) the parish shall not be called on to contribute to the payment of any expenses incurred in pursuance of this section; and
  - (d) any question of accounts arising between the parish and the other parishes in the district, or between the parish and the district, in consequence of this section, shall be decided finally by the Local Government Board:
- (6) After the adoption of this Act for any such district, proceedings shall not, except with the sanction of the Local Government Board, be taken for the separate adoption thereof for any parish in the district.

23. The vestry or district board constituted under the Metropolis Management Act, 1855 (*g*), for any parish mentioned in schedule A. or district mentioned in schedule B. to that Act, as amended by any subsequent Acts, may, if this Act is in force in such parish or district, appropriate with the sanction of the Local Government Board for the purposes of this Act any land which is vested in such vestry or board.

Power to vestry or district board in London to appropriate land for library, &c.

#### *Supplemental Provisions.*

24. Any agreement under this Act between two or more vestries or library authorities, or between a library authority and any other body, may provide that on the termination of the agreement an adjustment shall be made of the interests of the several parties thereto in any property to the provision of which they have contributed, and as to the mode in which the adjustment shall be arrived at, and in the event of any dispute the adjustment shall on the application of any of the parties be made by an arbitrator appointed by the Local Government Board.

Adjustment of interests on termination of agreement.

#### 25. [*Saving for Oxford.*]

26. For the purposes of this Act the vestry of a parish shall be any body of persons acting by virtue of any Act of Parliament as or instead of a vestry, and, where there is no such body, shall be the inhabitants of the parish in vestry assembled, but in the latter case the persons registered as county electors in respect of the occupation of property situate in the parish, and no other persons, shall be members of the vestry.

Constitution and proceedings of vestry for purposes of Act.

27. In this Act, unless the context otherwise requires—

Definitions.

the expression "urban district" means a municipal borough, Improvement Act district, or local government district; and "urban authority" means, as regards each such district, the council, improvement commissioners, or local board:

the expression "financial year" means the period of twelve months for which the accounts of a library authority are made up:

the expression "voter" means a person who is registered as a county elector (*r*) or enrolled as a burgess in respect of the occupation of property situate in the district or parish in connexion with which the voter is mentioned:

the expression "overseers" includes any persons authorised and required to make and levy poor rates in a parish, and acting instead of overseers:

the expression "common council" means in relation to the City of London the mayor, commonalty, and citizens, acting by the mayor, aldermen, and commons in common council assembled.

28.—(1) The Acts mentioned in the second schedule to this Act shall be repealed as from the commencement of this Act, save so far as any of them extend beyond England and Wales; and where those Acts have been adopted for any library district, that adoption shall be deemed to have been an adoption of this Act, and this Act shall apply accordingly. Repeal.

(*g*) **Met. Man. Act, 1855.**—*Ante*, vol. i.

(*r*) **County elector.**—For the meaning of this expression, see the County Electors Act, 1888, sec. 2, *ante*, tit. "*County Electors.*"



15 & 56 Vict.  
c. 53.

Saving as to  
local Acts.

Short title.

(2) For the purpose of this section the said Acts shall be deemed to have been adopted for any district in which they were in force immediately before the commencement of this Act.

29. Nothing in this Act shall be deemed to limit, or to reduce or alter the limit of any rate which any library authority is authorised to levy under or by virtue of any local Act.

30. [*Commencement of Act: 1st October, 1892.*]

31. This Act may be cited as the Public Libraries Act, 1892.

## SCHEDULES.

### FIRST SCHEDULE.

Section 3.

REGULATIONS for ascertaining the opinion of the voters in a library district.

In these regulations the expression “presiding officer” means, in relation to any library district, the authority required under this Act to ascertain the opinion of the voters in that district on any question, or a person appointed by that authority, and that authority is referred to in these regulations as the “district authority.”

#### PART I.—PROCEDURE BY VOTING PAPERS.

1. The district authority shall, before the day appointed for the issuing of the voting papers, provide the presiding officer with a copy of the burgess roll or county register, as the case may be, or of the part or parts thereof containing the names of all the voters in the library district.

2. On the day appointed for issuing the voting papers the presiding officer shall send by post or cause to be delivered to every voter at his address appearing in the roll or register a voting paper in the form contained in part two of this schedule or to the like effect.

3. Every voting paper shall bear the number of the voter on the roll or register, as the case may be, and shall contain directions to the voter, in accordance with these regulations, as to the day on which and the hours within which the voting paper is to be collected or sent, and as to the place at which, if sent, it will be received.

4. The district authority shall, before the issue of the voting papers, appoint such a number of competent persons as may be necessary to collect and receive the voting papers and to assist in the scrutiny thereof on such terms and for such remuneration as may be reasonable, and shall also appoint a convenient place within the district at which the voting papers are to be received, but the district authority shall not be required to collect any voting papers which have been sent by them to addresses beyond the limits of the district.

5. Voting papers shall be collected between 8 a.m. and 8 p.m. of the third day after that on which they were issued. Such day is hereinafter in these regulations referred to as the polling day, and such last-mentioned hour is hereinafter referred to as the “conclusion of the poll.”

6. A voting paper shall not after collection be delivered up to any person except the presiding officer or a person appointed to receive voting papers.

7. The persons appointed to collect the voting paper shall, either before or as soon as may be after the conclusion of the poll, deliver the voting papers collected by them to the presiding officer or to a person appointed to receive the same.

8. A voting paper may be sent by prepaid post or by hand to the presiding officer at the place appointed by the district authority for the receipt thereof, so that it be received by the presiding officer at such appointed place before the conclusion of the poll. Voting papers, except those collected by persons appointed by the district authority, shall not be received at the appointed place after the conclusion of the poll.

9. Every person appointed to collect voting papers shall be appointed in writing by the district authority, and shall carry such writing with him while employed in the collection, and shall show it to any voter who may require him to do so. If any person so appointed fails to comply with this regulation, or if any unauthorised person fraudulently receives or induces any voter to part with a voting paper, such person shall be guilty of a misdemeanour, and liable, on conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding twenty pounds, or to both imprisonment and fine.

10. A voting paper which contains the answer "yes" or "no" to any question put to the voters, and is duly signed, shall be deemed to be a valid voting paper with respect to that question. 55 & 56 Vict. c. 53.

A voting paper shall be deemed to be duly signed if signed by the voter with his full name or ordinary signature.

11. Where any voter is unable to write he may cause his voting paper to be filled up by another person. In such case he shall attach his mark to the voting paper, and such mark shall be attested by such other person, who shall sign his name and append his address thereto. A voting paper to which such mark is attached, and which is duly attested, shall be deemed to be duly signed.

12. Any person fabricating a voting paper, or presenting or returning a fabricated voting paper, knowing that the same does not bear the true answer or signature of the voter to whom it was sent or intended to be sent, shall be guilty of personation, and liable to the penalties of that offence, as provided by the Ballot Act, 1872 (s).

35 & 36 Vict. c. 33.

13. The presiding officer shall, as soon as may be after the conclusion of the poll, proceed to a scrutiny of the voting papers, and shall compare the same with his copy of the roll or register, and ascertain how far the voting papers have been duly signed by the voters.

14. A question put to the voters shall be deemed to be answered and determined in the affirmative or negative, according as the majority of valid voting papers returned contain the answer "yes" or "no" to that question.

15. Immediately on the conclusion of the scrutiny the presiding officer shall report to the district authority the number of voters who have voted "yes" and "no" respectively to each question put to them, and the number of voting papers which are invalid.

16. The presiding officer shall seal up in separate packets the valid and the invalid voting papers respectively, and shall transmit them, together with his report, to the district authority.

17. Upon receiving the report of the presiding officer the district authority shall cause the result of the poll to be made public in such manner as they think fit.

## PART II.—FORM OF VOTING PAPER.

### *Public Libraries Act, 1892.*

BOROUGH (Parish or other library district) of  
No. (Here insert number of voter in burgess roll or county register, as the case may be.)

|                  |                                                                                                                                                                                                                                                                                                             |                                            |                                                                                    |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|------------------------------------------------------------------------------------|
| Question 1 ..... | Are you in favour of the adoption of the Public Libraries Act, 1892, for the borough (or parish, &c.) of ?                                                                                                                                                                                                  | Answer 1. (To be filled in "Yes" or "No.") | [To be omitted if Libraries Act already adopted.]                                  |
| Question 2 ..... | Are you in favour of the rate being limited to one halfpenny in the pound? (Or to three farthings, or of the existing limitation of the rate under the Public Libraries Act, 1892, being removed, or of the existing limitation to one halfpenny being raised to three farthings, as the case may require.) | Answer 2. (To be filled in "Yes" or "No.") | [To be omitted if no question stated in the requisition as to limitation of rate.] |
| Question 3 ..... | Are you in favour of an agreement being made with (here designate the body or bodies, according to section ten or section sixteen of this Act) for the purpose of (briefly state objects of proposed agreement)?                                                                                            | Answer 3. (To be filled in "Yes" or "No.") | [To be omitted if no such question raised.]                                        |

Signature of Voter.

(s) **Personation** is a felony punishable with imprisonment with hard labour for not exceeding two years. Ballot Act, 1872, sec. 24. Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), sec. 6 (2).

55 & 56 Vict. c. 53. 1. This voting paper will be collected by an authorised collector between the hours of 8 a.m. and 8 p.m. on day, the 18  
*(insert polling day)*, or may be sent by prepaid post or by hand, addressed to *(state name or designation of presiding officer, and place appointed by the district authority)*. If it is sent it must be received at that address before 8 p.m. on the above-mentioned day.  
2. You may require the collector to show his authority in writing. No authority is valid unless it is *(signed by A.B., or sealed, or as the district authority may direct)*.

Section 28.

SECOND SCHEDULE.  
ACTS REPEALED.

| Session and Chapter.       | Short Title.                                                     |
|----------------------------|------------------------------------------------------------------|
| 18 & 19 Vict. c. 70 .....  | The Public Libraries Act, 1855.                                  |
| 29 & 30 Vict. c. 114 ..... | The Public Libraries Amendment Act (England and Scotland), 1866. |
| 34 & 35 Vict. c. 71 .....  | The Public Libraries Act, 1855, Amendment Act, 1871.             |
| 47 & 48 Vict. c. 37 .....  | The Public Libraries Act, 1884.                                  |
| 50 & 51 Vict. c. 22 .....  | The Public Libraries Acts Amendment Act, 1887.                   |
| 52 & 53 Vict. c. 9.....    | The Public Libraries Acts Amendment Act, 1889.                   |
| 53 & 54 Vict. c. 68 .....  | The Public Libraries Acts Amendment Act, 1890.                   |

PUBLIC HEALTH ACT, 1875.  
[38 & 39 Vict. c. 55.]

\* \* \* \* \*

BORROWING POWERS (t).

Power to borrow on credit of rates. **233.** Any local authority may, with the sanction of the Local Government Board, for the purpose of defraying any costs, charges, and expenses incurred or to be incurred by them in the execution of the Sanitary Acts or of this Act, or for the purpose of discharging any loans contracted under the Sanitary Acts or this Act, borrow or re-borrow, and take up at interest, any sums of money necessary for defraying any such costs, charges, and expenses, or for discharging any such loans as aforesaid.  
An urban authority may borrow or re-borrow any such sums on the credit of any fund or all or any rates or rate out of which they are authorised to defray expenses incurred by them in the execution of this Act, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund or rates or rate.  
A rural authority may borrow or re-borrow any such sums, if applied or intended to be applied to general expenses of such authority, on the credit of the common fund out of which such expenses are payable, and if applied or intended to be applied to special expenses of such authority, on the credit of any rate or rates out of which such expenses are payable, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund, rate, or rates.  
(t) **Application of Act. Borrowing.**—The sections of this Act here set out are applied by the Public Libraries Act, 1892, sec. 19 (2), *ante*, to all money borrowed by any library authority for the purposes of that Act.



**234.** The exercise of the powers of borrowing conferred by this Act shall be subject to the following regulations; namely—

- (1) Money shall not be borrowed except for permanent works (including under this expression any works of which the cost ought in the opinion of the Local Government Board to be spread over a term of years):
- (2) The sum borrowed shall not at any time exceed, with the balances of all the outstanding loans contracted by the local authority under the Sanitary Acts and this Act, in the whole the assessable value for two years of the premises assessable within the district in respect of which such money may be borrowed:
- (3) Where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year of such premises, the Local Government Board shall not give their sanction to such loan until one of their inspectors has held a local inquiry and reported to the said Board:
- (4) The money may be borrowed for such time, not exceeding sixty years, as the local authority, with the sanction of the Local Government Board, determine in each case; and, subject as aforesaid, the local authority shall either pay off the moneys so borrowed by equal annual instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of Exchequer bills or other Government securities, such sum as will with accumulations in the way of compound interest be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned:
- (5) A local authority may at any time apply the whole or any part of the sinking fund set apart under this Act in or towards the discharge of the moneys for the repayment of which the fund has been established: Provided that they pay into the fund in each year and accumulate until the whole of the moneys borrowed are discharged a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied:
- (6) Where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not extend beyond the unexpired portion of the period for which the original loan was sanctioned, unless with the sanction of the Local Government Board, and shall in no case be extended beyond the period of sixty years from the date of the original loan.

Where any urban authority borrow any money for the purpose of defraying private improvement expenses, or expenses in respect of which they have determined a part only of the district to be liable, it shall be the duty of such authority, as between the ratepayers of the district, to make good, so far as they can, the money so borrowed, as occasion requires, either out of private improvement rates or out of a rate levied in such part of the district as aforesaid.

\* \* \* \* \*

**236.** Every mortgage authorised to be made under this Act shall be by deed, truly stating the date, consideration, and the time and place of payment, and shall be sealed with the common seal of the local authority, and may be made according to the form contained in schedule four to this Act, or to the like effect.

Form of mortgage.

**237.** There shall be kept at the office of the local authority a register of the mortgages on each rate, and within fourteen days after the date of any mortgage an entry shall be made in the register of the number and date thereof, and of the names and description of the parties thereto, as stated in the deed. Every such register shall be open to public inspection during office hours at the said office, without fee or reward; and any clerk or other person having the custody of the same, refusing to allow such inspection, shall be liable to a penalty not exceeding five pounds.

Register of mortgages.

**238.** Any mortgagee or other person entitled to any mortgage under this Act may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date and the consideration for the transfer; and such transfers may be according to the form contained in schedule four to this Act, or to the like effect.

Transfer of mortgages.

There shall be kept at the office of the local authority a register of the

38 & 39 Vict.  
c. 55.

Regulations as  
to exercise of  
borrowing  
powers.

38 & 39 Vict.  
c. 55.

transfers of mortgage charged on each rate, and within thirty days after the date of such deed of transfer, if executed within the United Kingdom, or within thirty days after its arrival in the United Kingdom, if executed elsewhere, the same shall be produced to the clerk of the local authority, who shall, on payment of a sum not exceeding five shillings, cause an entry to be made in such register of its date, and of the names and description of the parties thereto, as stated in the transfer; and until such entry is made the local authority shall not be in any manner responsible to the transferee.

On the registration of any transfer the transferee, his executors or administrators, shall be entitled to the full benefit of the original mortgage and the principal and interest secured thereby; and any transferee may in like manner transfer his estate and interest in any such mortgage; and no person except the last transferee, his executors or administrators, shall be entitled to release or discharge any such mortgage or any money secured thereby.

If the clerk of the local authority wilfully neglects or refuses to make in the register any entry by this section required to be made he shall be liable to a penalty not exceeding twenty pounds.

Receiver may  
be appointed  
in certain  
cases.

**239.** If at the expiration of six months from the time when any principal money or interest has become due on any mortgage of rates made under this Act, and after demand in writing, the same is not paid, the mortgagee or other person entitled thereto may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to a court of summary jurisdiction; and such court may, after hearing the parties, appoint in writing under their hands and seals some person to collect and receive the whole or a competent part of the rates liable to the payment of the principal or interest in respect of which the application is made, until such principal or interest, or both, as the case may be, together with the costs of the application and of collection, are fully paid.

On such appointment being made all such rates, or such competent part thereof as aforesaid, shall be paid to the person appointed, and when so paid shall be so much money received by or to the use of the mortgagee or mortgagees of such rates, and shall be rateably apportioned between them:

Provided that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to one thousand pounds, or unless a joint application is made by two or more mortgagees or other persons to whom there may be due, after such lapse of time and demand as last aforesaid, moneys collectively amounting to that sum.

\* \* \* \* \*

#### FORM H.

##### *Form of Mortgage of Rates.*

By virtue of the Public Health Act, 1875, we the \_\_\_\_\_ being the  
local authority under that Act for the district of \_\_\_\_\_ in consideration  
of the sum of \_\_\_\_\_ paid to the treasurer of the said district by *A.B.*  
of \_\_\_\_\_ for the purposes of the said Act, do grant and assign unto the  
said *A.B.*, his executors, administrators, and assigns, such proportion of the  
rates arising or accruing by virtue of the said Act from [*the rates mortgaged*] as  
the said sum of \_\_\_\_\_ doth or shall bear to the whole sum which is or  
shall be borrowed on the credit of the said rates, to hold to the said *A.B.*, his  
executors, administrators, and assigns, from the day of the date hereof until the  
said sum of \_\_\_\_\_ with interest at the rate of \_\_\_\_\_ per centum per  
annum for the same, shall be fully paid and satisfied: and it is hereby declared  
that the said principal sum shall be repaid on the \_\_\_\_\_ day of  
at [*place of payment*]. Dated this \_\_\_\_\_ day of \_\_\_\_\_ one thousand  
eight hundred and \_\_\_\_\_

[*To be sealed with the common seal of the local authority.*]

#### FORM I.

##### *Form of Transfer of Mortgage.*

I *A.B.* of \_\_\_\_\_, in consideration of the sum of \_\_\_\_\_ paid to me  
by *C.D.* of \_\_\_\_\_, do hereby transfer to the said *C.D.*, his executors,  
administrators, and assigns, a certain mortgage, bearing date the \_\_\_\_\_ day

of                    and made by the local authority under the Public Health Act, 1875, 38 & 39 Vict.  
 for the district of                    for securing the sum of                    and interest  
 thereon at                    per centum per annum [*or if such transfer be by endorse-*  
*ment on the mortgage, insert, instead of the words immediately following the word*  
*"assigns," the within security*], and all my right, estate, and interest in and to the  
 money thereby secured, and in and to the rates thereby assigned. In witness  
 whereof I have hereunto set my hand and seal this                    day of  
 one thousand eight hundred and

A.B.                    (L.S.)

\*                    \*                    \*                    \*                    \*                    \*



## QUARTER SESSIONS.

|                                                                                                       |           |
|-------------------------------------------------------------------------------------------------------|-----------|
| Scheme of London County Council regulating Holding of Quarter Sessions for the County of London ..... | page 1146 |
| Orders regulating Proceedings in Appeals under Valuation (Metrop.) Act, 1869.....                     | 1148      |
| 59 & 60 Vict. c. 55 (" Quarter Sessions (London) Act, 1896 ") .....                                   | 1150      |

SCHEME OF THE LONDON COUNTY COUNCIL FOR REGULATING  
THE HOLDING OF COURTS OF QUARTER SESSIONS FOR  
THE COUNTY OF LONDON, AS PROVIDED BY SECTION 42 (7)  
OF THE LOCAL GOVERNMENT ACT, 1888 (50 & 51 Vict. c. 41),  
*ante*, vol. i.

## GENERALLY.

1. The provisions of the Act 11 Geo. 4 and 1 Will. 4, chapter 70 (*a*), as to the times for holding quarter sessions, shall not apply to the county of London.
2. Quarter sessions shall be held at Clerkenwell and at Newington in the months of January, April, July, and October in every year, and the first session held in each of those months shall be general quarter sessions.
3. Adjourned quarter sessions shall be held at Clerkenwell in each of the months aforesaid at an interval of not less than two weeks or more than three weeks after the beginning of each quarter sessions held at Clerkenwell.
4. Adjourned quarter sessions shall be held at Newington in the months of February, May, August, and November.
5. A general session shall be held at Clerkenwell in every month except in the months hereinbefore appointed for the holding of quarter sessions at Clerkenwell.
6. General sessions shall be held at Newington in the months of March, June, September, and December in every year, and oftener if need be.
7. An adjourned general session shall be held at Clerkenwell for the disposal of business arising on the north side of the river Thames in every month (except in the months hereinbefore appointed for the holding of quarter sessions at Clerkenwell), and shall begin at an interval of not less than two weeks or more than three weeks after the beginning of the general session.
8. In the month of November in every year the clerk of the peace for the county of London shall prepare lists showing the days to be fixed for the sessions to be held at Clerkenwell and Newington respectively during the ensuing year in accordance with the foregoing provisions. In the lists so to be prepared special days shall be appointed for hearing appeals. The lists so to be prepared shall be laid before the November general sessions at Clerkenwell and the December general sessions at Newington respectively, and shall be revised and settled by such sessions respectively, and be printed on one paper in two parts, or divisions, and be issued by the clerk of the peace for the county of London; and sessions in accordance with such lists, when so revised and settled, shall be held during the year at Clerkenwell and Newington respectively. Provided that during the tenure of office of the existing clerk of the peace for the county of Surrey the list of the sessions to be held at Newington shall be prepared by him on a separate list, and such list, when revised and settled as aforesaid, shall be printed as a separate paper, and issued by him, and not by the clerk of the peace of the county of London.
9. The sessions so fixed shall, so far as practicable, be continued from day to day until the business to be dealt with at such sessions is completed. And it shall be the duty of the justices to take the steps necessary to secure that there shall be as many courts sitting at the same time as may be required for the discharge of the business with proper expedition. For this purpose (*a*) . . . (*b*)  
(*b*) Upon the present chairman ceasing to hold office there may be held at the same time at Clerkenwell and at Newington separate courts of quarter sessions,

50 & 51 Vict.  
c. 41, s. 116.

51 & 52 Vict.  
c. 41,  
s. 118 (10).

(*a*) 11 Geo. 4 & 1 Will. 4, c. 70, i.e., the Law Terms Act, 1830. Sec. 4 prescribes the times when quarter sessions are to be held.

(*b*) For this purpose (*a*).—The words omitted applied only during the continuance in office of the then chairman, who retired in August, 1896. See *Lond. Gaz.*, Aug. 11th, 1896, p. 4571.

and each of such courts may divide itself into two or more courts, as may be necessary.

10. Every court of sessions of the peace held at Clerkenwell and at Newington, and every adjournment thereof, shall have the same jurisdiction in every respect, including the power of hearing and determining appeals, as if such court were quarter sessions, and every session shall, as circumstances require, be deemed to be quarter or general sessions, and, if held at different places, to be original or adjourned sessions, and, if held simultaneously at two or more places, to be divided courts of the same sessions.

50 & 51 Vict.  
c. 41, s. 42 (6)  
and s. 116 (c).

11. The clerk of the peace for the county of London shall (save as hereinafter mentioned) take all necessary and proper steps to convene all sessions, and shall issue all necessary precepts to the sheriff to secure the due attendance there of the grand and petty juries; provided that during the tenure of office of the existing clerk of the peace for the county of Surrey all such duties shall, as respects the sessions to be held at Newington, be performed by him.

12. Upon the present clerk of the peace for Surrey ceasing to hold office the clerk of the peace for the time being of the county of London shall perform all the duties which are by law or by this scheme imposed upon the clerk of the peace for Surrey in respect of the county of London.

51 & 52 Vict.  
c. 41,  
s. 118 (10).

13. Cases triable at quarter sessions, and all other business to be disposed of at quarter sessions, and arising on the north side of the river Thames, shall be heard, determined, and disposed of at the sessions held at Clerkenwell; and cases triable at quarter sessions, and all other business to be disposed of at quarter sessions, and arising on the south side of the river Thames, shall be heard, determined, and disposed of at the sessions held at Newington.

51 & 52 Vict.  
c. 41, s. 116 (b).

14. All depositions, recognizances, notices, and other documents and things relating to cases triable, or business to be disposed of at quarter sessions, and required by law to be transmitted to quarter sessions, or to the clerk of the peace, shall, in respect of all cases and matters arising north of the river Thames, be transmitted to the clerk of the peace for the county of London; and in respect of all cases and matters arising south of the river Thames shall be transmitted to the present clerk of the peace for the county of Surrey, and upon his ceasing to hold office shall be transmitted to the clerk of the peace for the time being of the county of London.

51 & 52 Vict.  
c. 41, s. 116 (b)

15. It shall be the duty of the justices to take care that the above provisions for the disposal of business arising north and south respectively of the river Thames shall, so far as reasonably practicable, be strictly observed. Nevertheless, a committal for trial or recognizance shall not be invalidated, nor shall the powers of the sessions be affected, by any disregard of the provisions of this scheme as to the place or time of trial, and every court of sessions held in and for the county of London, at whatever place or time such court is held, shall have complete power to hear, determine, and dispose of any case or matter arising in the county of London, notwithstanding an objection that such case or matter ought to be heard and determined at the sessions held at another place or at another time.

51 & 52 Vict.  
c. 41, s. 116 (b)

16. Nothing in this scheme shall affect or take away any power given by law to the present chairman of the quarter sessions, or to the present clerk of the peace for the county of London, or to the present clerk of the peace for the county of Surrey.

51 & 52 Vict.  
c. 41, s. 117 (5),  
s. 118 (8) (10).

#### AS TO APPEALS UNDER THE VALUATION (METROPOLIS) ACT, 1869 (c).

1. At every adjourned January quarter sessions held at Clerkenwell sittings of the court shall be fixed to hear appeals under the Valuation (Metropolis) Act, 1869.

51 & 52 Vict.  
c. 41, s. 42 (10).

2. Such sittings shall begin not earlier than the 1st February then next, and shall be so arranged as to enable the court to determine all appeals (except where a valuation list or valuation is ordered) before the ensuing 31st March.

3. The court shall at the same session appoint, with the consent of the Local Government Board, a clerk and other persons to assist the sessions in the performance of their duties under the Act.

32 & 33 Vict.  
c. 67, s. 25.

4. A separate list shall be prepared of appeals relating to property in the City of London, and prior to the hearing of such appeals the clerk of the court

51 & 52 Vict.  
c. 41, s. 42 (10).

(appointed under order three) shall send seven days' previous notice to the clerk of the peace of the City of London for the information of the members of the court of quarter sessions of the City of London appointed by that court to attend and sit as members of the quarter sessions for the county of London upon the hearing of such appeals.

32 & 33 Vict.  
c. 67, s. 26. 5. Appeals may be heard at Clerkenwell, or at Newington, or in the City of London, or at some or all of such places, at the same time, or at different times, as the court shall from time to time determine.

32 & 33 Vict.  
c. 67, s. 25. 6. At every April quarter session held at Clerkenwell the court shall assign the remuneration (subject to the approval of the Local Government Board) of the clerk and other officers appointed as aforesaid for the year ended the 31st March.

7. A separate account shall be kept of the expenses incurred by the sessions in respect of the exercise of its jurisdiction under the Act, and such account made up to the 31st March in every year shall be submitted to and be examined by the court of the April quarter sessions held at Clerkenwell.

32 & 33 Vict.  
c. 67, s. 50. 8. Such account, when approved by the court, shall be submitted by the clerk of the court (appointed under order three) for such audit as may be directed by the Local Government Board, with a view that the same, when audited, may be paid in manner prescribed by the Valuation (Metropolis) Act, 1869.

1st March, 1892.

Sealed by order

L. S.

(Signed) H. DE LA HOOKE,  
*Clerk of the Council.*

I hereby approve the foregoing scheme.

(Signed) HENRY MATTHEWS,

One of Her Majesty's Principal Secretaries of State.

HOME OFFICE, WHITEHALL,  
24th March, 1892.

## ORDERS REGULATING THE PROCEEDINGS ON APPEALS UNDER THE VALUATION (METROPOLIS) ACT, 1869 (*d*), AND DETERMINING THE RECOGNIZANCES TO BE ENTERED INTO BY APPELLANTS.

Appellants to  
special sessions  
to enter into  
recognizances.

1. On an appeal to special sessions from the decision of an assessment committee the appellant and one surety shall, within seven days after giving notice of appeal, enter into recognizances, in the sum of £20 each, before a justice of the peace for the county conditioned for the due prosecution of the appeal, and for the payment of any costs ordered by the special sessions to be paid by the appellant.

This order shall not apply to an assessment committee, to overseers, or to surveyors of taxes.

Appellants to  
quarter  
sessions to  
enter into  
recognizances.

2. On an appeal to quarter sessions from the decision either of an assessment committee or special sessions the appellant and two sureties shall, within seven days after giving notice of appeal, enter into recognizances before a justice of the peace for the county conditioned for the due prosecution of the appeal, and for the payment of any costs ordered by the quarter sessions to be paid by the appellant, and the amount of such recognizances shall be determined by such justice, having regard to the nature of the appeal, so that the amount be not less than £50.

This order shall not apply to an assessment committee, to overseers, or to surveyors of taxes.

Power for  
court to waive  
recognizances.

3. In any case in which it shall appear to the quarter sessions that, for some reasonable cause, the recognizances directed by orders Nos. 1 and 2 to be

(*d*) Valuation (Metrop.) Act, 1869.—See sec. 27, *post*, tit. "Rating."



entered into by appellants and their sureties, or any of them, have been omitted to be entered into in conformity with the order, the court may, if it sees fit so to do, waive all, or any, of such recognizances, and proceed to hear the appeal notwithstanding such omission. Or the court may, if it think fit so to do, order such security to be given or entered into as to the court may seem just, and may, if necessary for the purpose of such order being complied with, postpone the hearing of such appeal until such time, and upon such terms and conditions as to costs or otherwise, as the court shall think fit.

4. In any case in which it shall be desired by an appellant to make a deposit of money in substitution, or in part substitution, for the recognizances required by orders Nos. 1 and 2, the money so to be deposited shall be paid by him into the London and Westminster Bank to a joint account in the names of the chairman of the court and of the clerk of the court, and the receipt given by the bank for such payment shall be deposited with the clerk of the court, and shall be filed by him in proof of such payment, and such deposit shall not, in any case, be less than £50.

Money may be deposited in lieu of recognizances.

5. Appeals to quarter sessions shall be entered by petition, to be lodged in duplicate with the clerk of the court, on or before the 14th January next following the final approval of the valuation list, or the supplemental list, as the case may be, by the assessment committee.

Appeals to be entered by petition.

6. In an appeal to quarter sessions the person or persons claiming to appear as respondents shall give notice in writing of his or their intention so to appear, and shall state in the notice whether he or they intend to appear separately, or as joint respondents with any other person or persons; and such notice shall be delivered to the clerk of the court, and served on the appellant, within fourteen days after the time limited by order No. 5 for the entry of the appeal, and the person or persons omitting to give such notice shall not be heard, unless by special leave of the court, until he or they shall have given such notice or complied with such terms as the court may think fit to direct or impose.

Respondents at quarter sessions to give notice of intention to appear.

The expression "person or persons" in this order shall extend to and include a ratepayer, an occupier, a surveyor of taxes, an assessment committee, overseers, and any body of persons authorised by law to levy rates or require contributions payable out of rates.

7. On or before the 1st February next following the entry of an appeal to quarter sessions the appellant shall state his case and the facts to be proved, and the points of law (if any) to be argued in support of the case, and shall deliver to the clerk of the court fifteen copies thereof for the use of the court, and shall serve one copy on each respondent; and, in like manner, each respondent shall, on or before the same day, state his case and the facts to be proved, and the points of law (if any) to be argued in support of the case, and shall deliver, in like manner, fifteen copies thereof for the use of the court, and shall serve one copy on the appellant.

Appellants and respondents at quarter sessions to state cases.

Provided that this order shall not apply to an appeal in which the total rateable value appealed against does not exceed £300.

8. Notices of motion shall be served two clear days before the court is moved, unless by special leave of the court, and a copy of the notice shall be delivered to the clerk of the court.

Notices of motion.

9. Consent motions may be made at any time, notwithstanding that the appeals to which they relate are not in the daily cause list.

Consent motions.

10. Consents shall be signified by counsel in open court (e).

By counsel.

11. No order shall be made affecting the gross value of a hereditament until proof has been given, orally or by affidavit, that notice of appeal has been served upon the surveyor of taxes.

Orders affecting gross value.

12. The appellant's and respondent's cases shall be lithographed or printed on judicature paper, bookwise, or on white paper of the same size, and shall be endorsed longways; and the petition of appeal and all other documents (except the appellant's and respondent's cases) supplied for the use of the court, or required to be delivered to the clerk of the court, shall be written, lithographed, or printed as aforesaid.

Paper and printing.

13. One counsel only for each party to the appeal shall be heard unless by special leave of the court.

One counsel only to be heard.

14. The counsel for the appellant shall begin, except when the surveyor of taxes is the appellant, in which case the counsel for the respondents shall begin.

Counsel for appellant to begin.

(e) **Consents by counsel.**—See *Reg. v. London JJ., Ex parte Dewey, post*, p. 1192.

In cases in which there shall be more than one respondent claiming to appear separately their counsel shall be heard in the order determined by the court at the time.

Costs to be taxed.

15. The costs ordered by the court to be paid by any of the parties to the appeal shall be taxed in the usual manner by the clerk of the court before the order is settled.

Solicitors to attend on settling order of court.

16. The solicitors of the parties shall attend the clerk of the court, on settling any order of the court, at a time to be fixed by him.

Service of documents.

17. The provisions of section sixty-five of the Act with respect to the service of orders and notices under the Act shall apply to all documents required to be served under these orders.

Interpretation.

18. Such of the expressions in these orders as are the same as those used in the Act shall respectively bear the interpretation given to them by the Act.

P. H. EDLIN, *Chairman*,

31st March, 1890.

Approved.

HENRY MATTHEWS,

*One of Her Majesty's Principal Secretaries of State.*

WHITEHALL,

16th April, 1890.

[*Tables of fees to be paid to clerks of special sessions and to the clerk of the court.*]

\* \* \* \* \*

## QUARTER SESSIONS (LONDON) ACT, 1896.

59 & 60 Vict. c. 55. An Act to make provisions relating to the offices of Chairman and Deputy Chairman of the Court of Quarter Sessions for the County of London. [14 August, 1896]

Providing for a pension for the chairman and deputy chairman.

1. It shall be lawful for Her Majesty the Queen to assign a pension to the chairman or any deputy chairman of the court of quarter sessions for the county of London—

(a) after such chairman or deputy chairman shall have attained the age of seventy years, if he shall then have completed fifteen years' service; or

(b) after such chairman or deputy chairman shall have completed fifteen years' service, if he shall attain the age of seventy years before having completed fifteen years' service; or

(c) in the event of such chairman or deputy chairman being disabled by permanent infirmity from the performance of the duties of his office.

Provided that no such pension shall exceed in amount two thirds of the salary of the chairman or deputy chairman, as the case may be.

Providing for the appointment of deputies.

2. It shall be lawful for a Secretary of State, in case such chairman or deputy chairman shall be absent by reason of sickness or other unavoidable cause, or shall be absent on such other occasions as may be allowed by such Secretary of State, to appoint a barrister of not less than ten years' standing to act as chairman or deputy chairman in the absence of such chairman or deputy chairman, as the case may be, and in case the chairman and deputy chairman shall both be absent as aforesaid, to appoint two barristers of not less than ten years' standing to act as chairman and deputy chairman during the absence of such chairman and deputy chairman. There shall be paid to every barrister so appointed the sum of five pounds five shillings for every day on which he shall sit and act as chairman or deputy chairman.

Appointment of clerk to chairman.

3. It shall be lawful for the chairman of the court of quarter sessions for the county of London for the time being to appoint any person he may think fit and proper to be his clerk, and to remove such clerk at his pleasure. There shall be paid to such clerk a salary at a rate not exceeding two hundred and fifty pounds a year.

Appointment of clerk to deputy chairman.

4. It shall be lawful for the deputy chairman of the court of quarter sessions for the county of London for the time being to appoint any person he may think fit and proper to be his clerk and to remove such clerk at his pleasure. There

shall be paid to such clerk a salary at a rate not exceeding one hundred and fifty pounds a year. 59 & 60 Vict. c. 55.

5. Every pension, fee, and salary paid under this Act shall be paid by the London County Council out of the county fund as a general county purpose. Payments by London County Council.

6. Section forty-three of the London County Council (General Powers) Act, 1895 (pension to chairman of court of quarter sessions), shall not apply to any chairman appointed after the passing of that Act (*f*). Section 43 of Act of 1895 not to apply to future chairmen.

7. This Act may be cited as the Quarter Sessions (London) Act, 1896. Short title.

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(*f*) **The London Coun. Council (Genl. Powers) Act, 1895**, sec. 43, empowered the county council to grant and pay a pension to the chairman of the court of quarter sessions on his retiring from office. The then chairman retired, and his successor was appointed in Aug., 1896. See the *Lond. Gaz.*, Aug. 11th, 1896, p. 4571.



## RACECOURSE LICENCES.

## RACECOURSES LICENSING ACT, 1879.

42 & 43 Vict. c. 18. An Act for the Licensing of Metropolitan Suburban Racecourses. [3rd July, 1879]

[Preamble. Rep. by 57 & 58 Vict. c. 56. Statute Law Revision.]

## Definitions.

1. A horse race within the meaning of this Act shall mean any race in which any horse, mare, or gelding shall run or be made to run in competition with any other horse, mare, or gelding, or against time, for any prize of what nature or kind soever, or for any bet or wager made or to be made in respect of any such horse, mare, or gelding, or the riders thereof, and at which more than twenty persons shall be present.

Horse races unlawful within ten miles of London unless licensed.  
Power to county council to license at Michaelmas.

2. . . . It shall not be lawful that any horse race be held or take place on any pretext whatsoever within a radius of ten miles from Charing Cross, in the city of Westminster, unless in a place for which a licence for horse racing has been obtained pursuant to the provisions hereinafter contained.

3. Any person desirous of obtaining a licence for horse racing for any open or enclosed land or place, being the owner, lessee, or occupier of such land or place, may apply to the *justices assembled at any Michaelmas quarter sessions of the peace to be holden* (a) for the county, city, riding, liberty, or division in which such land or place is situate, which justices are hereby empowered to grant or withhold a licence at their discretion, such licence to be of force and valid for twelve months dating from the twenty-fifth day of March next following the date of such application.

Mode of making application for licence.  
Penalty on persons taking part in unlicensed horse races.  
Penalty on owners and occupiers of ground where unlicensed horse races take place.

4. Every such application shall be made to the *justices* (a) in the same manner as applications for licences for places to be kept for public dancing, music, or other entertainment under the provisions of the Disorderly Houses Act, 1751 (b).

5. Any person who . . . shall take part in any horse race in any open or enclosed land or place for which a licence is required under this Act, and for which a licence has not been obtained, shall upon summary conviction be liable to a penalty of ten pounds, or an imprisonment not exceeding two months.

6. Any person who shall be the owner or lessee or in possession or occupation of any open or enclosed land or place for which a licence for horse racing is required under this Act, and upon which any horse race shall be held . . . without such licence having been obtained, shall be guilty of a misdemeanour, and on conviction thereof shall be punishable for every such offence with fine or imprisonment at the discretion of the court, such fine not to be less than five pounds nor more than twenty-five pounds, and such imprisonment not to be less than one month nor more than three months.

Unlicensed horse races to be deemed a nuisance, and liable accordingly.  
Short title.

7. Every horse race held or taking place in contravention of the provisions of this Act shall be deemed to be a nuisance, and any person injured or inconvenienced thereby shall have all such rights and remedies against all persons taking part in the same, and against owners, lessees, and occupiers of the land or place, as he would have in case of a nuisance at common law.

8. This Act may be cited as the Racecourses Licensing Act, 1879.

(a) *Justices*.—Now the county council. Loc. Govt. Act, 1888, sec. 3 (v), *ante*, vol. i., and see cases cited in note (y) thereto.

(b) *Disorderly Houses Act, 1751*.—See secs. 2—4, *post*, tit. “Theatres.”

## RAILWAYS AND CANALS.

|                                                                                       |               |
|---------------------------------------------------------------------------------------|---------------|
| 8 & 9 Vict. c. 120 ("Railways Clauses Consolidation Act, 1845"), sec. 65              | page 1153     |
| 51 & 52 Vict. c. 25 ("Railway and Canal Traffic Act, 1888")                           | 1153          |
| 54 Vict. c. 12 ("Railway and Canal Traffic (Provisional Orders) Amendment Act, 1891") | note (h) 1156 |
| 55 & 56 Vict. c. 44 ("Railway and Canal Traffic Act, 1892")                           | note (g) 1156 |
| 57 & 58 Vict. c. 54 ("Railway and Canal Traffic Act, 1894"), sec. 2                   | note (f) 1155 |
| 59 & 60 Vict. c. 48 ("Light Railways Act, 1896")                                      | 1160          |

## RAILWAYS CLAUSES CONSOLIDATION ACT, 1845.

## [8 &amp; 9 Vict. c. 120.]

\* \* \* \* \*

65. Where, under the provisions of this or the special Act, or any Act incorporated therewith, the company are required to maintain or keep in repair any bridge, fence, approach, gate, or other work executed by them, it shall be lawful for two justices, on the application of the surveyor of roads, or of any two householders of the parish or district where such work may be situate, complaining that any such work is out of repair, after not less than ten days' notice to the company, to order the company to put such work into complete repair within a period to be limited for that purpose by such justices; and if the company fail to comply with such order they shall forfeit five pounds for every day that they fail so to do, and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be applied, in such manner and by such persons as they think fit, in putting such work into repair.

Justices to have power to order repair of bridges, &c., on complaint of surveyor, or of two householders.

\* \* \* \* \*

## RAILWAY AND CANAL TRAFFIC ACT, 1888 (a).

51 & 52 Vict. c. 25. An Act for the better regulation of Railway and Canal Traffic, and for other purposes. [10th August, 1888]

1. This Act may be cited as the Railway and Canal Traffic Act, 1888.

This Act shall be construed as one with the Regulation of Railways Act, 1873, and the Acts amending it; and those Acts and this Act may be cited together as the Railway and Canal Traffic Acts, 1873 and 1888.

Short title and construction.  
36 & 37 Vict. c. 48.

## PART I.—COURT AND PROCEDURE OF RAILWAY AND CANAL COMMISSIONERS.

2—6. [*Establishment of Railway and Canal Commission.*]

7.—(1) Any of the following authorities, that is to say—

(a) any of the following local authorities, namely, . . . the common council of the City of London, . . . any representative county body which may be created by an Act passed in the present or any future session of Parliament, . . . the *Metropolitan Board of Works* (b) . . .

may make to the commissioners any complaint which the commissioners have jurisdiction to determine (c), and may do so without proof that such authority

Provision for complaints by public authority in certain cases.

(a) **Application of Act.**—Certain powers are conferred on the county council under this Act, as to which see secs. 7, 16, 29 (3), 31, and 45, and note to sec. 24 (8); and on the sanitary authorities under sec. 16, *post*.

(b) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(c) **Jurisdiction of commissioners.**—See Browne and Theobald's "Law of Railways," "Hodges on Railways," and other works on the same subject, which is beyond the scope of the present book.

51 & 52 Vict.  
c. 25.

is aggrieved by the matter complained of, and any of such authorities may appear in opposition to any complaint which the commissioners have jurisdiction to determine in any case where such authority, or the persons represented by them, appear to the commissioners to be likely to be affected by any determination of the commissioners upon such complaint.

(2) The Board of Trade may, if they think fit, require, as a condition of giving a certificate under this section, that security be given in such manner and to such amount as they think necessary, for any costs which the complainants may be ordered to pay or bear.

(3) Any certificate granted under this section shall, unless withdrawn, be in force for twelve months from the date on which it was given.

#### *Jurisdiction (d).*

8. [*Jurisdiction of railway commissioners transferred to the commission.*]

9. [*Jurisdiction of commissioners under special Acts, 17 & 18 Vict. c. 31.*]

10. [*Jurisdiction over tolls and rates.*]

11. [*Jurisdiction to order traffic facilities, notwithstanding agreements.*]

12. [*Power to award damages.*]

13. [*No damages where rates published under certain conditions.*]

14. [*Orders on two or more companies.*]

15. [*Amendment of 36 & 37 Vict. c. 48, sec. 8, as to references to arbitration.*]

Power to  
apportion  
expenses  
between  
railway  
company and  
applicants for  
works.

16.—(1) Where the Board of Trade or the commissioners, in the exercise of any power given by any general or special Act, on application order a company to which this part of this Act applies, to provide a bridge, subway, or approach, or any work of a similar character, the Board of Trade or the commissioners, as the case may be, may require as a condition of making the order that an agreement to pay the whole or a portion of the expenses of complying with the order shall be entered into by the applicants or some of them, or such other persons as the Board of Trade or commissioners think fit, and any of the following local authorities, namely, any sanitary authority (e), highway board, surveyor of highways acting with the consent of the vestry of his parish, or any other authority having power to levy rates, shall have power, if such authority think fit, to enter into any such agreement as is sanctioned by the Board of Trade or commissioners for the purpose of the order.

(2) In such case any question respecting the persons by whom or the proportions in which the expenses of complying with the order are to be defrayed may, on the application of any party to the application, or on a certificate of the Board of Trade, be determined by the commissioners.

(3) In this section the expression "parish" shall have the same meaning as the same expression has in the Acts relating to highways; and the expression "the consent of the vestry of his parish" shall, in any place where there is no vestry meeting, mean the consent of a meeting of inhabitants contributing to the highway rates, provided that the same notice shall have been given of such a meeting as would be required by law for the assembling of a meeting in vestry.

#### *Appeals.*

Appeals on  
certain  
questions to  
superior court  
of appeal.

17.—(1) No appeal shall lie from the commissioners upon a question of fact, or upon any question regarding the locus standi of a complainant.

(2) Save as otherwise provided by this Act, an appeal shall lie from the commissioners to a superior court of appeal.

(3) An appeal shall not be brought except in conformity with such rules of court as may from time to time be made in relation to such appeals by the authority having power to make rules of court for the superior court of appeal.

(d) **Jurisdiction of commissioners.**—See note (c) on page 1153.

(e) **Sanitary authority.**—For the London sanitary authorities, see Pub. Hlth. (London) Act, 1891, sec. 99, *ante*, vol. i.



(4) On the hearing of an appeal the court of appeal may draw all such inferences as are not inconsistent with the facts expressly found, and are necessary for determining the question of law, and shall have all such powers for that purpose as if the appeal were an appeal from a judgment of a superior court, and may make any order which the commissioners could have made, and also any such further or other order as may be just, and the costs of and incidental to an appeal shall be in the discretion of the court of appeal, but no commissioner shall be liable to any costs by reason or in respect of any appeal.

51 & 52 Vict.  
c. 25.

(5) The decision of the superior court of appeal shall be final: Provided that where there has been a difference of opinion between any two of such superior courts of appeal, any superior court of appeal in which a matter affected by such difference of opinion is pending may give leave to appeal to the House of Lords, on such terms as to costs as such court shall determine.

(6) Save as provided by this Act, an order or proceeding of the commissioners shall not be questioned or reviewed, and shall not be restrained or removed by prohibition, injunction, certiorari, or otherwise, either at the instance of the Crown or otherwise.

#### *Supplemental.*

18. [*General powers and enforcement of orders.*]

19. The costs of and incidental to every proceeding before the commissioners shall be in the discretion of the commissioners, who may order by whom and to whom the same are to be paid, and by whom the same are to be taxed and allowed (*f*).

Costs.

20. [*Power to commissioners to make rules.*]

21. [*Appointment of officers, clerks, &c.*]

22. [*Salaries, expenses, &c.*]

23. This part of this Act shall apply to any railway company, and to any canal company, and to any railway and canal company.

Company to  
which part i.  
applies.

#### PART II.—TRAFFIC.

24.—(1) Notwithstanding any provision in any general or special Act, every railway company shall submit to the Board of Trade a revised classification of merchandise traffic, and a revised schedule of maximum rates and charges applicable thereto, proposed to be charged by such railway company, and shall fully state in such classification and schedule the nature and amounts of all terminal charges proposed to be authorised in respect of each class of traffic, and the circumstances under which such terminal charges are proposed to be made. In the determination of the terminal charges of any railway company regard shall be had only to the expenditure reasonably necessary to provide the accommodation in respect of which such charges are made, irrespective of the outlay which may have been actually incurred by the railway company in providing that accommodation.

Revised  
classification  
of traffic and  
schedule of  
rates.

(2) The classification and schedule shall be submitted within six months from the passing of this Act, or such further time as the Board of Trade may, in any particular case, permit, and shall be published in such manner as the Board of Trade may direct.

(3) The Board of Trade shall consider the classification and schedule, and any objections thereto, which may be lodged with them on or before the prescribed time and in the prescribed manner, and shall communicate with the railway company and the persons (if any) who have lodged objections, for the purpose of arranging the differences which may have arisen.

(4) If, after hearing all parties whom the Board of Trade consider to be entitled to be heard before them respecting the classification and schedule, the Board of Trade come to an agreement with the railway company as to the classification and schedule, they shall embody the agreed classification and

(*f*) **Costs.**—"In proceedings before the Railway and Canal Commissioners, other than disputes between two or more companies, the commissioners shall not have power to award costs on either side, unless they are of opinion that either the claim or the defence has been frivolous and vexatious." Railway and Canal Traffic Act, 1894 (57 & 58 Vict. c. 54), sec. 2.

51 & 52 Vict.  
c. 25.

schedule in a provisional order, and shall make a report thereon, to be submitted to Parliament, containing such observations as they think fit in relation to the agreed classification and schedule.

(5) When any agreed classification and schedule have been embodied in a provisional order, the Board of Trade, as soon as they conveniently can after the making of the provisional order (of which the railway company shall be deemed to be the promoters), shall procure a bill to be introduced into either House of Parliament for an Act to confirm the provisional order, which shall be set out at length in the schedule to the bill.

(6) In any case in which a railway company fails within the time mentioned in this section to submit a classification and schedule to the Board of Trade, and also in every case in which a railway company has submitted to the Board of Trade a classification and schedule, and after hearing all parties whom the Board of Trade consider to be entitled to be heard before them, the Board of Trade are unable to come to an agreement with the railway company as to the railway company's classification and schedule, the Board of Trade shall determine the classification of traffic which, in the opinion of the Board of Trade, ought to be adopted by the railway company, and the schedule of maximum rates and charges, including all terminal charges proposed to be authorised applicable to such classification which would, in the opinion of the Board of Trade, be just and reasonable, and shall make a report, to be submitted to Parliament, containing such observations as they may think fit in relation to the said classification and schedule, and calling attention to the points therein on which differences which have arisen have not been arranged.

(7) After the commencement of the session of Parliament next after that in which the said report of the Board of Trade has been submitted to Parliament, the railway company may apply to the Board of Trade to submit to Parliament the question of the classification and schedule which ought to be adopted by the railway company, and the Board of Trade shall on such application, and in any case may, embody in a provisional order such classification and schedule as in the opinion of the Board of Trade ought to be adopted by the railway company, and procure a bill to be introduced into either House of Parliament for an Act to confirm the provisional order, which shall be set out at length in the schedule to the bill (g).

(8) If, while any bill to confirm a provisional order made by the Board of Trade under this section is pending in either House of Parliament, a petition is presented against the bill (h) or any classification and schedule comprised therein, the bill, so far as it relates to the matter petitioned against, shall be referred to a select committee, or if the two Houses of Parliament think fit so to order, to a joint committee of such Houses, and the petitioner shall be allowed to appear and oppose as in the case of a private bill.

(9) In preparing, revising, and settling the classifications and schedules of rates and charges, the Board of Trade may consult and employ such skilled persons as they may deem necessary or desirable; and they may pay to such persons such remuneration as they may think fit and as the Treasury may approve.

(g) **Provisional order.**—"A provisional order in pursuance of" the above sub-section (7) "may be made, and a bill to confirm the same may be introduced, at any time after hearing the parties, as provided in sub-section four," *supra*. Railway and Canal Traffic Act, 1892 (55 & 56 Vict. c. 44).

(h) **Power to county council to petition against bill.**—"Every governing body within the meaning of the Borough Funds Act . . . and every county council shall be entitled to be a petitioner and to appear and oppose any bill to confirm any provisional order made under section twenty-four of the Railway and Canal Traffic Act, 1888, and to provide or contribute towards providing the expenses of the appearance or opposition of a petitioner out of the funds or rates under their respective control, as if the bill for confirming such provisional order were a local or personal bill within the meaning of section two of the Borough Funds Act. . . . and the provisions of the said last-mentioned Acts respectively shall apply to any such appearance or opposition, and to any expenses incurred or to be incurred in relation thereto: Provided that in the case of a county council no consent of owners and ratepayers shall be required." Railway and Canal Traffic (Provisional Orders) Amendment Act, 1891 (54 Vict. c. 12).

The Borough Funds Act is set out *ante*, tit. "*Bills in Parliament*." The county council is a governing body within the meaning of that Act. Loc. Govt. Act, 1888, sec. 15, *ante*, vol. i.

(10) The Act of Parliament confirming any provisional order made under this section shall be a public general Act, and the rates and charges mentioned in a provisional order as confirmed by such Act shall, from and after the Act coming into operation, be the rates and charges which the railway company shall be entitled to charge and make.

51 & 52 Vict.  
c. 25.

(11) At any time after the confirmation of any provisional order under this section any railway company may, and any person, upon giving not less than twenty-one days' notice to the railway company may, apply in the prescribed manner to the Board of Trade to amend any classification and schedule by adding thereto any articles, matters, or things, and the Board of Trade may hear and determine such application, and classify and deal with the articles, matters, or things referred to therein in such manner as the Board of Trade shall think right. Every determination of the Board of Trade under this sub-section shall forthwith be published in the "London Gazette," and shall take effect as from the date of the publication thereof.

\* \* \* \* \*

25. [*Provisions as to through traffic.*]

26. [*Powers of commissioners as to through rates.*]

27. [*Under preference in case of unequal tolls, rates, and charges, and unequal services performed.*]

28. [*Extension of enactments as to undue preference to goods carried by sea.*]

29.—(1) Notwithstanding any provision in any general or special Act, it shall be lawful for any railway company, for the purpose of fixing the rates to be charged for the carriage of merchandise to and from any place on their railway, to group together any number of places in the same district, situated at various distances from any point of destination or departure of merchandise, and to charge a uniform rate or uniform rates of carriage for merchandise to and from all places comprised in the group from and to any point of destination or departure.

Group rates  
to be charge-  
able by railway  
companies.

(2) Provided that the distances shall not be unreasonable, and that the group rates charged and the places grouped together shall not be such as to create an undue preference.

(3) Where any group rate exists or is proposed, and in any case where there is a doubt whether any rates charged or proposed to be charged by a railway company may not be a contravention of section two of the Railway and Canal Traffic Act, 1854, and any Acts amending the same, the railway company may, upon giving notice in the prescribed manner, apply to the commissioners, and the commissioners may, after hearing the parties interested and any of the authorities mentioned in section seven of this Act, determine whether such group rate or any rate charged or proposed to be charged as aforesaid does or does not create an undue preference. Any persons aggrieved, and any of the authorities mentioned in section seven of this Act, may, at any time after the making of any order under this section, apply to the commissioners to vary or rescind the order, and the commissioners, after hearing all parties who are interested, may make an order accordingly.

30. [*Power to dock companies and harbour boards to complain of undue preference.*]

31.—(1) Whenever any person receiving or sending or desiring to send goods by any railway is of opinion that the railway company is charging him an unfair or an unreasonable rate of charge, or is in any other respect treating him in an oppressive or unreasonable manner, such person may complain to the Board of Trade.

Complaints to  
Board of  
Trade of  
unreasonable  
charges by  
railway  
companies.

(2) The Board of Trade, if they think that there is reasonable ground for the complaint, may thereupon call upon the railway company for an explanation, and endeavour to settle amicably the differences between the complainant and the railway company.

(3) For the purpose aforesaid, the Board of Trade may appoint either one of their own officers or any other competent person to communicate with the complainant and the railway company, and to receive and consider such explanations and communications as may be made in reference to the complaint; and the Board of Trade may pay to such last-mentioned person such remuneration as they may think fit, and as may be approved by the Treasury.



51 & 52 Vict.  
c. 25.

(4) The Board of Trade shall from time to time submit to Parliament reports of the complaints made to them under the provisions of this section, and the results of the proceedings taken in relation to such complaints, together with such observations thereon as the Board of Trade shall think fit.

(5) A complaint under this section may be made to the Board of Trade by any of the authorities mentioned in section seven of this Act, in any case in which, in the opinion of any of such authorities, they or any traders or persons in their district are being charged unfair or unreasonable rates by a railway company; and all the provisions of this section shall apply to a complaint so made as if the same had been made by a person entitled to make a complaint under this section.

32. [*Annual returns by railway companies.*]

33. [*Classification table open for inspection. Copies to be sold.*]

34. [*Place of publication of rates in respect of traffic at places other than stations.*]

35. [*Power to Bd. of Trade to make rules for purposes of part ii. of Act.*]

### PART III.—CANALS.

Part ii. to  
extend to  
canal  
companies.

36. All the provisions of part two of this Act relating to any railway company shall, so far as applicable, apply to every canal company, and to every railway and canal company; and in part two of this Act, unless the context otherwise requires, the expression "railway company" shall include a canal company and railway and canal company, and the expression "railway" shall include a canal, and the expression "rate" shall include tolls and dues of every description chargeable for the use of any canal or by any canal company.

37. [*Application of 36 & 37 Vict. c. 48 to canals.*]

38. [*Powers of commissioners over canal tolls, rates, and charges where a railway company or its officers own or control the traffic of a canal.*]

39. [*Returns by canal companies.*]

40. [*Byelaws of canal companies.*]

41. [*Inspection of canals.*]

42. [*Misapplication of a railway company's funds for acquisition of unauthorised interest in canal.*]

43. [*Canal companies may agree for through tolls, &c.*]

44. [*Canal companies may establish clearing system.*]

Abandonment  
of canal.

45.—(1) Where, on the application of a canal company, it appears to the Board of Trade that any canal or part of a canal belonging to the applicants (hereinafter referred to as an unnecessary canal) is at the time of making the application unnecessary for the purposes of public navigation, or where, on the application of any local authority, or of three or more owners of lands adjoining or near to any canal or part of a canal, it appears to the Board of Trade that that canal or part of a canal (hereinafter referred to as a derelict canal) has for at least three years previously to the making of the application been disused for navigation, or, by reason of the default of the proprietors thereof, has become unfit for navigation, or that the lands adjoining or near thereto have suffered injury by water that has escaped from the derelict canal, and that the proprietors of the derelict canal decline or are unable to effect the repairs necessary to prevent further injury, the Board of Trade may by warrant signed by their secretary authorise the abandonment by the existing proprietors of such unnecessary canal or such derelict canal, and after the granting of the warrant, and the due publication as required by the Board of Trade of a notice of the granting thereof, the Board of Trade may make an order releasing the canal company or other the proprietors of the unnecessary or derelict canal from all liability to maintain the same canal, and from all statutory and other obligations in respect thereof, or of or consequent on the abandonment thereof.

(2) In case of an unnecessary canal no warrant of abandonment shall be granted unless the Board of Trade are satisfied—

(a) That it is unnecessary for the purposes of public navigation:

(b) That the application has been expressly authorised by a resolution of a majority of the shareholders of the canal company owning the canal present and voting at an extraordinary or special general meeting of that company;

(c) That such public and other notices of the application have been given as the Board of Trade may require; 51 & 52 Vict. c. 25.

(d) That compensation (the amount thereof to be determined in case of difference as the Board of Trade may prescribe) has been made to all persons entitled to compensation by reason of the proposed abandonment of the canal.

(3) In the case of a derelict canal the warrant may be granted on the condition that the canal or any part thereof, with all or any of the powers relating thereto, be transferred to any person, body of persons, or local authority, and where any such condition is imposed the Board of Trade may, if they think fit, frame and embody in a provisional order a scheme for the management of the canal or any part thereof.

(4) The provisional order may provide for the constitution of a body to manage the canal or any part thereof, for the transfer to that body or any local authority of the canal or any part thereof, and of all or any of the powers relating thereto, for the limitation or discharge of any liabilities affecting the canal or the owners thereof for the time being, and for any other matters which may appear to the Board of Trade to be necessary or proper for carrying this section into effect.

(5) The Board of Trade may submit to Parliament for confirmation any provisional order made by it in pursuance of this section, but any such order shall be of no force unless and until it is confirmed by Act of Parliament.

(6) If while the bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the bill, so far as it relates to the order, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of private bills.

(7) In this section the expression "local authority" means any one of the local authorities mentioned in section seven of this Act.

(8) For the purpose of giving effect to the provisions of this section, the Board of Trade may require the applicants to furnish any evidence in their possession or under their control relative to the application, and may at the expense of the applicants appoint and send an officer to inspect the canal referred to in the application, and to obtain information and evidence in the neighbourhood thereof relative to the proposed abandonment, and may from time to time make regulations as to the mode of making applications, and the nature and mode of publication of notices, and generally as to the conduct of proceedings.

46. In this part of this Act the expression "canal company" shall include a "railway and canal company," so far as relating to any canal of any such last-mentioned company. Definition of "canal company."

#### PART IV.—MISCELLANEOUS.

47. [*Perpetuation of 36 & 37 Vict. c. 48.*]

48. [*Evidence on rating appeals.*]

49. [*Recovery and application of penalties.*]

50. In any proceedings under this Act any party may appear before the commissioners either by himself in person or by counsel or solicitor.

Parties may appear in person or by counsel, &c.

51. [*Parliamentary agents entitled to practise before commissioners.*]

52. [*Saving of powers conferred on commissioners and Board of Trade.*]

53. [*Proceedings of Board of Trade.*]

54.—(1) Where any local authority having power under this Act to make or oppose any complaint to the commissioners, or the Board of Trade, or to enter into any agreement to pay the whole or a portion of the expenses of complying with an order of the commissioners or the Board of Trade, or to make any application for the abandonment or acquisition of a canal under this Act, incur any expenses in or incidental to such complaint, opposition, agreement, or application, such expenses may be defrayed out of the rates or funds out of which the expenses incurred by such authority in the execution of their ordinary duties are defrayed, and if such authority is a rural sanitary authority in England, shall be defrayed as general expenses, unless the Local Government Board direct that they shall be defrayed as special expenses.

Expenses of local authorities.

(2) A local authority may enter into any contract involving the payment by themselves and their successors of any expenses authorised by this section to be defrayed.

51 & 52 Vict.  
c. 25.

38 & 39 Vict.  
c. 83.

(3) Where any such local authority have no power to borrow money for the purpose of defraying any expenses authorised by this section, such authority, if other than a surveyor of highways, may, with the consent of the Board of Trade in the case of any harbour board or conservancy authority, and with the consent of the Local Government Board in the case of any other authority, borrow money in manner provided by the Local Loans Act, 1875, on the security of the rates or funds out of which the expenses are authorised to be defrayed, and the prescribed period for the loan shall be such period as the board giving such consent may approve.

(4) On the request of any board whose consent is required for such loan, the Board of Trade or commissioners shall certify such particulars respecting the amount of the said expenses and the propriety of incurring the same and of borrowing for the payment thereof as may be requested by such board.

(5) In Ireland . . .

Definitions.

**55.** In this Act, unless the context otherwise requires—

Terms defined by the Regulation of Railways Act, 1873, have the meanings thereby assigned to them:

\* \* \* \* \*

The term “undue preference” includes an undue preference, or an undue or unreasonable prejudice or disadvantage, in any respect, in favour of or against any person or particular class of persons or any particular description of traffic:

The term “terminal charges” includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes, and other similar matters, and of any services rendered thereat:

The term “merchandise” includes goods, cattle, live stock, and animals of all descriptions:

The term “trader” includes any person sending, receiving, or desiring to send merchandise by railway or canal:

The term “home,” in relation to merchandise, includes the United Kingdom, the Channel Islands, and the Isle of Man:

The term “rating appeal” means an appeal against any valuation list or against any poor rate or any other local rate.

\* \* \* \* \*

### LIGHT RAILWAYS ACT, 1896.

**59 & 60 Vict. c. 48.** An Act to facilitate the Construction of Light Railways in Great Britain.  
[14th August, 1896]

**1.** [*Establishment of Light Railway Commission, consisting of three commissioners appointed by Bd. of Trade. Powers of commissioners to cease on Dec. 31st, 1901.*]

Application  
for orders  
authorising  
light railways.

**2.** An application for an order authorising a light railway under this Act shall be made to the Light Railway Commissioners, and may be made—

- (a) by the council of any county, borough, or district through any part of which the proposed railway is to pass; or
- (b) by any individual, corporation, or company; or
- (c) jointly by any such councils, individuals, corporations, or companies.

Powers of  
local  
authorities  
under order.

**3.**—(1) The council of any county, borough, or district may, if authorised by an order under this Act—

- (a) undertake themselves to construct and work, or to contract for the construction or working of, the light railway authorised;
  - (b) advance to a light railway company, either by way of loan or as part of the share capital of the company, or partly in one way and partly in the other, any amount authorised by the order;
  - (c) join any other council or any person or body of persons in doing any of the things above-mentioned; and
  - (d) do any such other act incidental to any of the things above-mentioned as may be authorised by the order.
- (2) Provided that—



- (a) an order authorising a council to undertake to construct and work or to contract for the construction or working of a light railway, or to advance money to a light railway company, shall not be made except on an application by the council made in pursuance of a special resolution passed in manner directed by the first schedule to this Act; and
- (b) a council shall not construct or work, or contract for the construction or working of any light railway wholly or partly outside their area, or advance any money for the purpose of any such railway, except jointly with the council of the outside area, or on proof to the satisfaction of the Board of Trade that such construction, working, or advance is expedient in the interests of the area of the first-mentioned council, and in the event of their being authorised so to do their expenditure shall be so limited by the order as not to exceed such amount as will, in the opinion of the Board of Trade, bear due proportion to the benefit which may be expected to accrue to their area from the construction or working of the railway.

59 & 60 Vict.  
c. 48.

4. [*Loans by Treasury to light railway company.*]

- (3) Where the Treasury advance money to a light railway company under this section, and the advance by the council to the company is made in whole or part by means of a loan, the loan by the Treasury under this section shall rank *pari passu* with the loan by the council.

5. [*Special advances by Treasury to light railway company.*]

- (c) Where the Treasury agree to make any such special advance as a free grant, the order authorising the railway may make provision as regards any parish that, during a period not exceeding ten years to be fixed by the order, so much of the railway as is in that parish shall not be assessed to any local rate at a higher value than that at which the land occupied by the railway would have been assessed if it had remained in the condition in which it was immediately before it was acquired for the purpose of the railway, but before such provision is made in any order the local and rating authorities of every such parish shall be informed of the intention to insert such provision, and shall be entitled to be heard. The order may authorise the Board of Trade to extend any such period.

\* \* \* \* \*

6. [*Limitation on amount of advance by Treasury and provision of money by National Debt Commissioners.*]

7.—(1) Where an application for authorising a light railway under this Act is made to the Light Railway Commissioners, those commissioners shall, in the first instance, satisfy themselves that all reasonable steps have been taken for consulting the local authorities, including road authorities, through whose areas the railway is intended to pass, and the owners and occupiers of the land it is proposed to take, and for giving public notice of the application, and shall also themselves by local inquiry and such other means as they think necessary possess themselves of all such information as they may consider material or useful for determining the expediency of granting the application.

Consideration  
of application  
by Light  
Railway Com-  
missioners.

- (2) The applicants shall satisfy the commissioners that they have
- (a) published once at least in each of two consecutive weeks, in some newspaper circulating in the area or some part of the area through which the light railway is to pass, an advertisement describing shortly the land proposed to be taken and the purpose for which it is proposed to be taken, naming a place where a plan of the proposed works and the lands to be taken, and a book of reference to the plan, may be seen at all reasonable hours, and stating the quantity of land required; and
- (b) served notice in the prescribed manner on every reputed owner, lessee, and occupier of any land intended to be taken, describing in each case the land intended to be taken, and inquiring whether the person so served assents to or dissents from the taking of his land, and requesting him to state any objections he may have to his land being taken.

The plan and book of reference shall be in the prescribed form, and for the purposes of this section the expression “prescribed” shall mean prescribed by rules made under this Act (i).

(i) Rules, dated September, 1896, have been made by the Bd. of Trade with respect to applications to the Light Railway Commissioners for orders authorising light railways.

59 & 60 Vict.  
c. 48.

(3) The commissioners shall before deciding on an application give full opportunity for any objections to the application to be laid before them, and shall consider all such objections, whether made formally or informally.

(4) If after consideration the commissioners think that the application should be granted, they shall settle any draft order submitted to them by the applicants for authorising the railway, and see that all such matters (including provisions for the safety of the public and particulars of the land proposed to be taken) are inserted therein, as they think necessary for the proper construction and working of the railway.

(5) The order of the Light Railway Commissioners shall be provisional only, and shall have no effect until confirmed by the Board of Trade in manner provided by this Act.

(6) Where an application for a light railway has been refused by the Light Railway Commissioners, the applicants, if the council of any county, borough, or district, may appeal against such refusal to the Board of Trade, who may, at any time if they think fit, remit the application or any portion thereof to the said commissioners for further consideration with or without special instructions.

8. [*Commissioners to submit order to Board of Trade for confirmation.*]

9. [*Consideration of order by Board of Trade.*]

10. [*Confirmation of order by Board of Trade.*]

Provisions  
which may be  
made by the  
order.

11. An order under this Act may contain provisions consistent with this Act for all or any of the following purposes—

- \* \* \* \* \*
- (f) the representation on the managing body of the railway of any council who advance, or agree to advance, any money for the purpose of the railway; and
- (g) authorising a council to advance or borrow money for the purposes of the railway and limiting the amount to be so advanced or borrowed, and regulating the terms on which any money is to be so advanced or borrowed; and
- (h) the manner in which the profits are to be divided, where an advance is made by a council to a light railway company as part of the share capital of the company; and

- \* \* \* \* \*
- (j) fixing the maximum rates and charges for traffic; and

- \* \* \* \* \*
- (l) empowering any local authority to acquire the railway; and

- \* \* \* \* \*

12. [*Application of general Railway Acts.*]

13. [*Mode of settling purchase money and compensation for taking of land.*]

14. [*Payment of purchase money or compensation.*]

15. [*Provisions as to Board of Trade.* 37 & 38 Vict. c. 40.]

Expenses  
of local  
authorities.

16.—(1) The council of any county, borough, or district may pay any expenses incurred by them and allowed by the Light Railway Commissioners with reference to any application for an order authorising a light railway under this Act, in the case of a county council as general expenses (k), in the case of a borough council out of the borough fund or rate, and in the case of a district council other than a borough council as general expenses under the Public Health Acts.

Provided that any expenses incurred by a county council under this Act may be declared by the order authorising the railway or, in the event of an unsuccessful application for such an order, by the Light Railway Commissioners, to be exclusively chargeable on certain parishes only in the county, and those expenses shall be levied accordingly as expenses for a special county purpose under the Local Government Act, 1888 (k).

51 & 52 Vict.  
c. 41.

(2) Where the council of any county, borough, or district are authorised to expend any money by an order authorising a light railway under this Act, they may raise the money required—

(a) if the expenditure is capital expenditure, by borrowing in manner authorised by the order; and

(b) if the expenditure is not capital expenditure, as if it was on account of the expenses of an application under this Act.

(k) **General expenses. Special county purposes.**—See the Loc. Govt. Act, 1888, sec. 68 (2) and (3), *ante*, vol. i.

(3) The Board of Trade may from time to time on the application of any council extend, subject to the limitations of this Act, the limit of the amount which the council are authorised by an order under this Act to borrow, or to advance to a light railway company, and the limit so extended shall be substituted for the limit fixed by the order. 59 & 60 Vict. c. 48.

(4) Where an order under this Act authorises any council to borrow for the purposes of a light railway, suitable provision shall be made in the order for requiring the replacement of the money borrowed within a fixed period not exceeding sixty years, either by means of a sinking fund or otherwise.

(5) Any profits made by a council in respect of a light railway shall be applied in aid of the rate out of which the expenses of the council in respect of the light railway are payable.

(6) Where a rate is levied for meeting any expenditure under this Act, the demand note for the rate shall state, in a form prescribed by the Local Government Board, the proportion of the rate levied for that expenditure.

17.—(1) The councils of any county, borough, or district may appoint a joint committee for the purpose of any application for an order authorising a light railway under this Act, or for the joint construction or working of a light railway, or for any other purpose in connexion with such a railway for which it is convenient that those councils should combine. Joint committees.

(2) The provisions of the Local Government Act, 1888 (*l*), or of the Local Government Act, 1894, as the case may be, with respect to joint committees, shall apply to any joint committee appointed for the purpose of this Act by any councils who could appoint a joint committee under those Acts, but where the councils have no power under those Acts to appoint a joint committee the provisions in the third schedule to this Act shall apply. 51 & 52 Vict. c. 41. 56 & 57 Vict. c. 73.

18. [*Working of ordinary railway as light railway.*]

19. [*Power of owners to grant land or advance money for a light railway.*]

20. [*Power to grant Crown lands.*]

21.—(1) No land being part of any common, and no easement over or affecting any common, shall be purchased, taken, or acquired under this Act without the consent of the Board of Agriculture, and the board shall not give their consent unless they are satisfied that, regard being had to all the circumstances of the case, such purchase, taking, or acquisition is necessary, that the exercise of the powers conferred by the order authorising the railway will not cause any greater injury to the common than is necessary, and that all proper steps have been taken in the interest of the commoners and of the public to add other land to the common (where this can be done) in lieu of the land taken, and where a common is divided to secure convenient access from one part of the common to the other. Provision as to commons.

(2) The expression "common" in this section shall include any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, any metropolitan common within the meaning of the Metropolitan Commons Acts, 1866 to 1878 (*m*), and any town or village green.

22. [*Preservation of scenery and objects of historical interest.*]

23. [*Junctions with existing railways.*]

24. [*Amendment of order.*]

25. [*Provision as to telegraphs.* 41 & 42 Vict. c. 76.]

26. [*Application to Scotland.*]

27. [*Act not to extend to Ireland.*]

28. In this Act, unless the context otherwise requires—

The expression "light railway company" includes any person or body of persons, whether incorporated or not, who are authorised to construct, or are owners or lessees of, any light railway authorised by this Act, or who are working the same under any working agreement. Definitions.

\* \* \* \* \*

29. This Act may be cited as the Light Railways Act, 1896. Short title.

(*l*) Joint committees.—See the Loc. Govt. Act, 1888, secs. 81 and 82, *ante*, vol. i.

(*m*) Metropolitan Commons Acts.—*Ante*, tit. "Open Spaces."



59 & 60 Vict.  
c. 48.

Section 3.

## SCHEDULES.

### FIRST SCHEDULE.

#### MODE OF PASSING SPECIAL RESOLUTIONS.

1. The resolution approving of the intention to make the application must be passed at a meeting of the council.
2. The resolution shall not be passed unless a month's previous notice of the resolution has been given in manner in which notices of meetings of the council are usually given.
3. The resolution shall not be passed unless two thirds of the members of the council present and voting concur in the resolution.

Section 12.

### SECOND SCHEDULE.

[*Enactments relating to safety, &c.*]

Section 17.

### THIRD SCHEDULE.

#### JOINT COMMITTEES (*n*).

- (a) Any council taking part in the appointment of a joint committee may delegate to the committee any power which the council may exercise for the purpose for which the committee is appointed.
- (b) A council shall not be authorised to delegate to a joint committee any power of making a rate or borrowing money.
- (c) Subject to the terms of the delegation the joint committee shall have the same power in all respects with respect to any matter delegated to them as the councils appointing it or any of them.
- (d) The members of the joint committee may be appointed at such times and in such manner, and shall hold office for such period, as may be fixed by the councils appointing them :  
 Provided that a member shall not hold office beyond the expiration of fourteen days after the day for the ordinary election of councillors of the council by which he was appointed, or in Scotland after the day for the ordinary election of councillors of the council of the county in which the district is situated.
- (e) The costs of a joint committee shall be defrayed by the councils by whom the committee is appointed, in such proportions as they may agree upon, and in the event of their differing in opinion, as may be determined by the Board of Trade on an application by either council.
- (f) When any of the councils joining in the appointment of a joint committee is a county or district council other than a borough council, the accounts of the joint committee shall be audited in like manner and with the like power to the officer auditing the accounts, and with the like incidents and consequences as the accounts of a county council.
- (g) The chairman at any meeting of the committee shall have a second or casting vote.
- (h) The quorum, proceedings, and place of meeting of a committee, whether within or without the area within which the committee are to exercise their authority, shall be such as may be determined by regulations jointly made by the councils appointing the committee, and in the event of their differing in opinion as may be determined by the Board of Trade on an application by either council.
- (i) Subject to those regulations the quorum, proceedings, and place of meeting, whether within or without the area within which the committee are to exercise their jurisdiction, shall be such as the committee direct.

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(*n*) **Joint committees.**—The provisions of this schedule only apply where the councils appointing a joint committee have no power to appoint a joint committee under the Loc. Govt. Acts, 1888 and 1894. Sec. 17, *ante*.

## RATING.

|                                                                                |               |
|--------------------------------------------------------------------------------|---------------|
| 15 & 16 Vict. c. 81 ( "County Rates Act, 1852" ) .....                         | page 1165     |
| 29 & 30 Vict. c. 78 ( "County Rates Act, 1866" ) .....                         | note (g) 1167 |
| 25 & 26 Vict. c. 103 ( "Union Assessment Committee. Act, 1862" ) .....         | 1170          |
| 27 & 28 Vict. c. 39 ( "Union Assessment Committee Amendment Act, 1864" ) ..... | 1176          |
| 32 & 33 Vict. c. 67 ( "Valuation (Metropolis) Act, 1869" ) .....               | 1178          |
| 47 Vict. c. 5 ( "Valuation (Metropolis) Amendment Act, 1884" ) .....           | 1197          |
| 38 & 39 Vict. c. 33 ( "Metropolis Management Act, 1875" ) .....                | 1198          |
| 59 & 60 Vict. c. 16 ( "Agricultural Rates Act, 1896" ) .....                   | 1199          |
| 57 & 58 Vict. c. 53 ( "London (Equalisation of Rates) Act, 1894" ) .....       | 1202          |

## COUNTY RATES ACT, 1852 (a).

15 & 16 Vict. c. 81. An Act to consolidate and amend the Statutes relating to the Assessment and Collection of County Rates in England and Wales.  
[30th June, 1852]

1. [*Rep.* 38 & 39 Vict. c. 66. *Statute Law Revision.*]

2—3. [*Rep.* 55 & 56 Vict. c. 19. *Statute Law Revision.*]

4—20. [*Preparation of the basis or standard for the county rate. Repealed by the Valuation (Metropolis) Act, 1869, sec. 77, as to so much as relates to the preparation of a basis or standard of county rate for any part of the Metropolis, as defined by secs. 3 and 4 of that Act, post (b).*]

21. From and after the passing of this Act, it shall be lawful for the justices of the peace(c) of the several counties, or divisions of counties in England and Wales, assembled at their general or quarter sessions(c), or at any adjournment or adjournments thereof, and they are hereby authorised and empowered, whenever circumstances shall appear to require it, to order and direct a fair and equal county rate to be made, for all the purposes to which the county stock or rate is now or shall hereafter be made liable by law, according to the basis or standard for the time being in force in such county or division of a county; and for that purpose to assess and tax every parish, township, and other place, whether parochial or extra-parochial, within the respective limits of their commissions, or within such divisions, rateably and equally, according to a certain pound rate (to be from time to time fixed and publicly declared by such justices), upon the basis or standard hereinbefore mentioned, of the full and fair annual value of the property, messuages, lands, tenements, and hereditaments rateable to the relief of the poor therein, or which in any place not maintaining its poor would be liable to be rated for the relief of the poor if the said last-mentioned place were a parish, any law or statute to the contrary thereof notwithstanding; and the justices of the peace(c) shall in all cases where the same may be necessary appoint proper persons within such extra-parochial or other places for the assessing, taxing, and rating such extra-parochial property, messuages, lands, tenements, and hereditaments, and levying, collecting, and paying over such assessment, taxes, or rates.

County council to make a fair and equal county rate whenever circumstances appear to require it.

(a) **Short title.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(b) **Standard of county rate in Metropolis.**—The Metropolis, as defined by the Valuation (Metrop.) Act, 1869, secs. 3 and 4, *post*, consists of the present administrative county of London, with the exception of the hamlet of Penge. In the Metropolis the valuation list prepared under that Act is conclusive for the purpose of the county rate [*ib.*, sec. 45 (1)], but in the hamlet of Penge the basis or standard for the county rate is prepared and revised by a committee appointed by the London County Council in accordance with the provisions of secs. 4 to 20 of this Act, which are not set out here, as they affect so small a portion of London.

(c) **Justices of the peace.**—Now the county council. Loc. Govt. Act, 1888, secs. 3 (1), 40 (9), and 68 (4), *ante*, vol. i.

15 & 16 Vict.  
c. 81.

Parishes  
aggrieved  
may appeal.

**22.** If the churchwarden or churchwardens, overseer or overseers of the poor, or other inhabitant or inhabitants of any parish, township, or place, whether parochial or otherwise, where there is no churchwarden or overseer, or person appointed to act as such, shall at any time thereafter have reason to think that such parish, township, or place is aggrieved by any rate or assessment now existing, or hereafter to be made upon the basis or standard hereinbefore mentioned, either in pursuance of this Act or of any Act or Acts now in force, whether it be on account of the proportions assessed upon the respective parishes, townships, or places being unequal, or on account of some one or more of them being without sufficient cause omitted altogether from the rate, or on account of such parish, township, or place being rated at a higher proportion of the pound sterling according to the fair annual value of the rateable property therein, or on account of some other parish or parishes, township or townships, place or places being rated at a lower proportion of the pound sterling according to the fair annual value of the rateable property therein than has been fixed and declared by the *justices of the peace of the said county in sessions assembled (d)*, as the basis of the rate of the said county, or on account of the altered state of the value of the property assessed, or any part thereof, or shall have any other just cause of complaint whatsoever, it shall be lawful for such churchwarden or churchwardens, overseer or overseers of the poor, or other inhabitant or inhabitants where there is no churchwarden or overseer, or person appointed to act as such, to appeal to the justices of the peace for the county at the next quarter sessions of the peace (e) after such cause of appeal shall have arisen, against such part of the rate only as may affect the parish or parishes, township or townships, place or places which are unequally rated, or which shall appear to be over-rated or under-rated, or omitted altogether from the rate: Provided always, that fourteen clear days' notice in writing previous to the first day of such last-mentioned quarter sessions shall be given by the parties intending to appeal to the parties against whose rate the appeal is to be made, also to the clerk of the peace of the county, and the hundred constable, of the grounds of such appeal and the intention to try such appeal at such quarter session of the peace; and the said justices are hereby empowered to hear and finally determine the same, and either to confirm such parts of the rate as have been appealed against, or to correct such inequalities, disproportions, or omissions as shall be proved to exist therein, as well in respect of the basis or standard as in the assessment of the rate made thereon in such manner as to them the said justices shall appear fair, just, and equitable, anything in this Act, or any former Act or Acts, or any law, usage, or custom, to the contrary thereof notwithstanding: Provided nevertheless, that upon such appeal no such rate shall be quashed or destroyed in regard to any other parish, township, or place, unless in cases where the justices of the peace of any county in quarter sessions assembled, or the major part of them, shall deem it necessary to proceed to the making of an entire new rate, and shall proceed therein, according to the provisions of this Act.

Rate to be raised, notwithstanding appeals, until determination of justices.  
57 Geo. 3, c. 94, s. 2.  
In case justices order rate to be set aside, decreased, or lowered, money paid subsequent to the time of appeal to be returned out of the general county rate.

**23.** The county rate or rates made upon any parish, township, or place (whether extra-parochial or otherwise) shall be paid, and shall and may be levied, recovered, and received, notwithstanding any appeal or appeals may have been made to the quarter sessions of the peace against any such rate or rates, and such rate or rates shall continue to be raised, levied, and received until the decision of the justices shall be made upon such appeal or appeals: Provided always, that if upon the hearing of any such appeal or appeals the court of quarter sessions of the peace shall order any rate or assessment to be set aside, decreased, or lowered, and it shall appear to the said court that any parish, township, or place have or hath, previously to the determination of such appeal or appeals, paid any sum or sums of money in consequence of such rates or assessments which ought not to have been paid or charged therein, then and in every such case the said court shall order such proportion of such sum or sums of money as shall have been so paid by any person or persons, parish, township, or place, subsequently to the notice which shall have been given of such last-mentioned appeal or appeals, to be repaid and returned to the person or persons,

(d) **Justices of the peace.**—See note (f) on page 1167.

(e) **Appeal to the justices.**—Appeals against the county rate are still made to the justices at quarter sessions, and not to the county council. Loc. Govt. Act, 1888, sec. 8 (1), *ante*, vol. i.



parish, township, or place which have or hath paid the same respectively, out of the general rate of the county in which the cause of appeal shall have arisen.

15 & 16 Vict.  
c. 81.

**24.** Save as hereinbefore otherwise provided, in case of any appeals, actions, suits, or proceedings at law respecting anything done in pursuance of this Act, or any other Act or Acts relating to the county rate, the expenses of all such appeals, actions, suits, or proceedings at law shall be borne and paid by such respective parishes, townships, places, and persons, or such of them, and in such proportions, as the said justices shall, as they are hereby authorised to do, upon any appeal, in their quarter sessions award and order, or as such courts wherein such actions, suits, or proceedings shall be instituted shall, as they are hereby authorised to do, adjudge and order.

Expenses of appeals or proceedings at law shall be paid in such proportions as the justices or courts of law shall award.

**25.** And for the more effectual preventing of frivolous appeals, be it enacted, that the justices of the peace in their quarter sessions assembled, upon proof before them there to be made of notice of any appeal having been given as hereinbefore authorised by any churchwarden or churchwardens, overseer or overseers, or other person or persons (though he or they did not afterwards prosecute such appeal), shall and may at the same sessions award and order to the party to whom such notice shall appear to have been given, such costs and charges as by the said justices in their discretion shall be thought reasonable and just to be paid by the churchwardens, overseers, or any other person by whom such notice shall have been given.

Costs may be awarded upon notices of appeal not prosecuted.

**26.** When and as often as the *justices of the peace* (*f*) within the respective limits of their commissions in England have made a county rate, a printed list of the parishes and places assessed to such rate, and the amount of the rateable value upon which each such parish and place shall have been respectively assessed, shall be sent to the overseers of the poor, constables, or other persons charged with the collection or levy of the county rate in every parish and place within the county (*g*), and such *justices, assembled at their general or quarter sessions* (*f*) or at any adjournment thereof, shall order precepts in the form shown in the schedule annexed to this Act, or as near thereto as may be, to be issued to the guardians of every union of parishes, of which union any parish is situate within such limits, stating the sum or sums assessed and charged for each such rate on each parish in the union the whole of which parish is situate within such limits, and to the guardians of every single parish situate within such limits, stating the sum or sums assessed and charged on such parish for each such rate, and requiring the guardians of such union or parish respectively, within such time as may be limited in such precepts, to cause the aggregate of the said several sums so stated to be paid by them, out of the moneys held by them on behalf of each such parish, to the treasurer of the county or place for which such *justices* (*f*) act, and may cause such precepts to be sent, by post or otherwise, to such guardians; and such precepts shall have force in every such union, so far as concerns such parishes as are within the limits of the commission of the said justices, notwithstanding that the place of meeting of such guardians may not be situated within such limits, and without being endorsed with the signature of any justice of the peace having ordinary jurisdiction in the place of meeting of the guardians; and such guardians shall raise the moneys required by such precepts to be paid in like manner as the money required by such guardians for the relief of the poor, and shall pay such moneys at the time limited and in the manner prescribed by such precepts; and if the treasurer of such guardians, or any person on his or their behalf, tender to the treasurer of the county or place for which such *justices* (*f*) act the aggregate of the said several sums, or if he so tender the whole sum assessed on any such parish or parishes in respect of any such rate or rates, together with a copy of such precept in which are specified the parish or parishes and the rate or rates in respect of which the same is so tendered, the treasurer of the county shall receive the sum so tendered, notwithstanding that the sums required to be paid on behalf of other of such parishes or of other of such rates be not then tendered, and shall give a receipt for the sum or sums received by him accordingly, but he shall not

County council shall send precepts directly to guardians of unions for the payment of county rates.

Guardians to pay such rates.

County treasurer to receive the same.

(*f*) **Justices.**—Now the county council. Loc. Gov. Act, 1888, sec. 3 (i), *ante*, vol. i.

(*g*) **Printed list shall be sent to overseers, &c.**—The printed lists mentioned in this section are, unless the county council otherwise direct, to be sent only on the occasion when a new basis or standard, or an alteration in the existing basis or standard, has been allowed and confirmed. County Rates Act, 1886 (29 & 30 Vict. c. 78), sec. 2.

15 & 16 Vict.  
c. 81.

If the guardians fail to pay such rates, the county council may issue warrants to the overseers of parishes, &c. to pay the same.

If the overseers, &c. fail to pay, the justices may levy the rate by distress and sale.

Parishes not in arrear with contributions to be reimbursed by those which are in arrear.

County council may issue precepts to the overseers of parishes, &c. not comprised in unions, or only partly within the jurisdiction of the council.

receive any sum on behalf of any such parish less than the whole of the sum assessed and charged thereon in respect of one such rate; and the receipt of the treasurer of such county or place shall be a good discharge for the payment of the sums specified in any such precept or of any of them.

**27.** In case guardians do not pay within the time limited in such precept the sum or sums of money therein required to be paid on behalf of any parish, the said justices (*h*) assembled as aforesaid may cause to be issued and sent, by post or otherwise, to the overseers of the poor of such parish, or to the petty constable or peace officer, or other person or persons empowered in any place to rate and levy the moneys assessed as such county rate, warrants to collect and pay to the treasurer of the county or place in which such justices (*h*) act, within a time to be named and limited in such warrants, the rate or rates charged on such parish or place respectively, together with an addition to such rate or rates in the proportion of one shilling to every ten; and such additional sum shall be applied and disposed of in like manner as the county rate; and such overseers of the poor, petty constables, peace officers, or other persons may reimburse themselves, as well for such additional sums as for the original amount of rate or rates, out of the moneys which they are respectively empowered to rate and levy for the purpose of such county rate, but shall not receive or take from the county rate, or any other rate, any allowance or compensation for their trouble or expenses incurred in collecting, levying, or paying such county rate.

**28.** If any overseer, petty constable, peace officer, or other person as aforesaid refuse, make default, or neglect to pay to the treasurer of the county or place within the time limited as aforesaid, the sum or sums of money specified in the said warrants, and if the clerk of the peace or treasurer of the county or place make complaint thereof, then any justice of the peace of such county or place may by warrant under his hand levy the same by distress and sale of the goods of the offender; and the justices assembled as aforesaid may pay to any clerk, constable, messenger, or other person who may have been employed in making such complaint, or in obtaining, drawing, or executing such warrant, such reasonable compensation out of the county stock as to the said justices may seem fit.

**29.** In every case where any parish comprised in a union has, on or before the day on which any precept as aforesaid should be obeyed, contributed money sufficient to enable the guardians of the union to pay any sum or sums required by such precept in respect of such parish, as well as to provide for the immediate relief of the poor of such parish, and to satisfy all other obligations of the said guardians in respect of such parish in force on that day, and where, through the default of any other parish or parishes in the same union in contributing money to such guardians, or through the neglect of such guardians to demand sufficient contributions from any other parish or parishes in the same union, the said guardians have applied the money of such first-mentioned parish to the use of such other parish or parishes, and are thereby rendered unable to pay any money so required by such precept on behalf of such first-mentioned parish, and such parish is by reason thereof compelled to pay the additional sum of one shilling in every ten, as hereinbefore provided, in every such case the guardians of the union shall reimburse such first-mentioned parish such additional sum, and all costs incurred by reason of the premises, out of the moneys of such other parish or parishes which may next thereafter come into the hands of such guardians; and in case more than one parish be in default as aforesaid the said guardians shall charge such additional sum and costs to every such parish, in proportion to the amount of the deficiency of the contribution of each parish respectively on the day on which the said precept should have been obeyed.

**30.** In the case of every parish not comprised within any union, and in which the laws for the relief of the poor are not administered by a board of guardians (*i*), and in the case of every parish comprised in a union, the guardians of which are not empowered to relieve the poor, and in the case of

(*h*) **Justices.**—See note (*h*) on p. 1169.

(*i*) **Parish not in union.**—The only places in the county of London which are not comprised in any union, and are not under the administration of a board of guardians, are Lincoln's Inn, Gray's Inn, Inner Temple, and Middle Temple. See table of "London Local Areas," published by the county council. For the purposes of the assessment of the county rate they are deemed to be parishes. See notes to sec. 175 of the Metrop. Man. Act, 1855, *ante*, vol. i.

any parish comprised within a union, or in which the laws for the relief of the poor are administered by a board of guardians, of which parish a part only is situated within the limits of the commission of any justices, for which part no separate rate is levied for the relief of the poor, or where there are no separate churchwardens or overseers of the poor, or where no separate or distinct rate is made and collected for the relief of the poor of any division or part of any parish, township, or place situated in and extending into two or more counties, ridings, or divisions, and in the case of every place not maintaining its own poor, but liable to the payment of county rates as aforesaid, the *justices assembled as aforesaid* (k) may, so soon as any vacancy occurs in the office of high constable, issue their warrant to the overseers, petty constables, peace officers, or other persons empowered by law to rate and levy county rates in such parish, part of a parish, or place, to pay to the county treasurer, or to transmit to him in such manner as the said *justices* (k) may from time to time direct, within a time limited in such warrant, the county rate, as aforesaid charged on them, without the agency or intervention of any high constable, and such *justices* (k) may cause such warrant to be sent by post or otherwise; and in case the said overseers, petty constable, peace officer, or other person refuse or neglect to pay any such rate within the time limited in such warrant, the same remedy may be had against them as is hereinbefore provided against overseers, petty constables, peace officers, or other persons refusing, making default, or neglecting to pay to the treasurer of the county or place, within the time limited, the rate or rates charged upon any parish in the union, and omitted to be paid by the guardians of such union, in compliance with the precept issued by the *justices* (k) as aforesaid.

15 & 16 Vict.  
c. 81.

31—35. [*Collection of county rate in parishes extending into two or more counties, or situate partly within and partly without a borough.*]

36—37. [*Rep. by 55 & 56 Vict. c. 19. Statute Law Revision.*]

38. [*Rep. by the Mun. Corp. Act, 1882 (45 & 46 Vict. c. 50), sec. 5.*]

39. Whenever precepts or warrants, as provided by this Act, are to be sent by post, the clerk of the peace (l) shall send every such precept or warrant by post as a registered letter, according to the regulations of the Postmaster-General in force for the time being in that behalf; and every precept or warrant delivered or tendered as a registered letter at the address of the person to whom it is addressed, whether a receipt be given for the same or not, shall be deemed to have been served on the person to whom the same was so delivered or tendered; and if delivered or tendered to the clerk or other like officer acting for any guardians, shall be deemed to have been served on the whole of such guardians; and if delivered or tendered to any one overseer of a parish shall be deemed to have been served on the whole of the overseers of such parish.

Delivery of  
precepts, &c.  
by post and  
evidence  
thereof.

40—43. [*Rep. by the Valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, post.*]

44. [*Limitation of actions. Virtually repealed by the Public Authorities Protection Act, 1893, ante.*]

45. Every person who in any manner wilfully resists or obstructs any overseer, collector, surveyor, or other person in the execution of his or their duty under this Act shall forfeit and pay any sum not exceeding five pounds, to be prosecuted and recovered before any two or more of Her Majesty's justices of the peace for the county wherein the offence is committed.

Penalty on  
persons  
obstructing  
overseers, &c.

46. [*Rep. by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 4.*]

47—50. [*Rep. by 55 & 56 Vict. c. 19. Statute Law Revision.*]

51. In the construction of this Act the word "county" shall mean and include any riding or division having a separate commission of the peace, or separate county treasurer, and any liberty, franchise, or other place in which rates in the nature of county rates may be levied, having a separate commission of the peace, and not subject to the jurisdiction of the county or counties at large in which liberty, franchise, or place may lie, nor contributing or paying to the county rates made for such county or counties at large; and that the words

The Act  
extended to all  
places having  
separate com-  
mission of  
the peace, and  
to all rates of  
the nature of  
county rates.

(k) *Justices*.—Now the county council. Loc. Govt. Act, 1888, secs. 3 (i), 40 (9), and 68 (4), *ante*, vol. i.

(l) *Clerk of the peace*.—Now the clerk of the county council. Loc. Govt. Act, 1888, sec. 3 (i) and sec. 83, *ante*, vol. i.



15 & 16 Vict.  
c. 81.

Construction of  
the words  
"parish,"  
"union,"  
"guardians."  
5 & 6 Will. 4,  
c. 76.

"county rate" shall mean and include every rate or tax assessed in any county or any division of a county as aforesaid for all or any of the purposes to which county rate or stock is or may hereafter be made liable.

52. The word "parish" shall be construed to include any township, vill, or place maintaining its own poor, whether parochial or extra-parochial, or any part of a parish, township, vill, or other place for which a separate poor rate may be made; the word "union" shall be construed to mean and include any number of parishes united under the Poor Law Amendment Act, 1854, or under any local Act; and the word "guardians" shall mean and include any board of guardians acting under the provisions of the said Act, and empowered to relieve the poor of any parish or union, and the visitors, guardians, directors, managers, acting guardians, vestrymen, or other officers in a union appointed to act in the ordering of relief of the poor from the poor rate under any general or local Act of Parliament; and the word "hundred" shall mean and include any hundred, wapentake, ward, or other district in the nature of a hundred, by whatever name denominated.

SCHEDULE to which this Act refers.

Section 26.

*Form of Precept.*

County of } To the guardians of the union.  
to wit. }

These are to require you, the guardians of the union, from and out of the moneys paid into the hands of the treasurer of your union for the uses and purposes of the said union, to pay or cause to be paid, on or before the day of into the hands of A.B., treasurer of the said county, appointed to receive the same, the sum of being the amount of the several and respective sums of money hereunder set down and expressed opposite to and against the names of the several parishes, townships, or places comprised within your said union, the said several sums being respectively charged and assessed thereon as the proportion of the several parishes, townships, or places towards the general county rate, at in the pound, made at the last quarter sessions [or general sessions] of the peace held at in and for the said county.

[Signature of the clerk of the peace (m).]

| NAMES OF PARISHES. | County Rate,<br>at<br>in the Pound. |    |    |
|--------------------|-------------------------------------|----|----|
|                    | £                                   | s. | d. |
|                    |                                     |    |    |

### UNION ASSESSMENT COMMITTEE ACT, 1862 (n).

25 & 26 Vict. c. 103. An Act to amend the Law relating to Parochial Assessments in England. [7th August, 1862]

Interpretation.  
4 & 5 Will. 4,  
c. 76.

1. The words used in this Act shall be construed in like manner as the words contained in the Poor Law Amendment Act, 1834 (o), and the word "committee" shall signify the assessment committee provided for by this Act; and this Act shall be termed "The Union Assessment Committee Act, 1862."

(m) *Clerk of the peace.*—Now the clerk of the county council. Loc. Govt. Act, 1888, sec. 3 (i) and sec. 83, *ante*; vol. i.

(n) *Application of Act.*—The following sections of this Act, and of the amending Act, 1864, are incorporated with the Valuation (Metrop.) Act, 1869, *post*.

(o) *Interpretation.*—Sec. 109 of the Poor Law Amend. Act, 1834, gives definitions

2. The board of guardians of every union formed under the Poor Law Amendment Act, 1843, shall, as soon as convenient after the passing of this Act and in every subsequent year, at their first meeting after the annual election of guardians, appoint from among themselves any number not less than six nor more than twelve to be a committee (p) . . . to be called the assessment committee of the union, for the investigation and supervision of the valuations to be made as hereinafter mentioned within such union (q), and for the performance of such said Acts and duties as hereinafter mentioned (p) . . .

25 & 26 Vict.  
c. 103.

Appointment  
of the assess-  
ment commit-  
tee by board of  
guardians.

3. [*Rep. by the Valuation (Metrop.) Act, 1869, sec. 77, post, as to the Metropolis as defined by secs. 3 and 4 of that Act.*]

4. If the guardians shall neglect or be prevented from making such appointment at the meeting above specified, the *Poor Law Board* (r) shall by their order appoint some other day on which the guardians shall make such appointment.

Provision for  
neglect to  
appoint.

5. If any guardian being a member of the committee cease to be guardian, or resign his seat at such committee, or die, or become incapable of acting as such member, the board of guardians shall with all convenient speed appoint a guardian to supply the vacancy.

Provision for  
vacancies.

6. During any vacancy in any assessment committee the other or continuing members of such committee may act, and shall have the same powers and jurisdiction as if no such vacancy had happened.

Continuing  
members may  
act during  
vacancies.

7. The authority of the committee appointed for any union under this Act shall extend over every parish comprised in such union.

Extent of  
committee's  
authority.

8. The committee shall hold their first meeting at the board room of the union on a day to be fixed by the board of guardians, and the subsequent meetings of the committee shall be holden at such times and at such place and upon such notice and requisition as they shall from time to time appoint; and any guardian of the union may be present at any meeting of the committee, but shall not be entitled to take part in the proceedings thereof.

First meeting,  
when to be  
holden.

9. All acts, orders, matters, and things by this Act authorised or directed to be made or done by the committee may be made or done by the major part of the members of such committee who shall be present at a meeting, the whole number present together at such meeting not being less than three, and not less in any case than one third of the whole number of which such committee consists; and when upon any question there shall be an equality of votes the presiding chairman shall have a second or casting vote.

Quorum of  
meetings.

10. The committee shall employ the clerk or assistant clerk of the board of guardians as their clerk, with such remuneration for his services as the *Poor Law Board* (r) shall sanction.

Committee  
may employ  
and pay clerk.

11. The committee shall cause a minute of their proceedings, and of the names of the members who attend each meeting, to be duly made from time to time in books to be provided for that purpose, which shall be kept by their clerk, under their superintendence, and every such entry shall be signed by the presiding chairman of the assessment committee present at the meeting at

Proceedings to  
be entered in  
books and  
signed ;

of a number of expressions, but, with the exception of the word "owner," such as are material for the interpretation of the present Act are superseded by the definitions contained in sec. 4 of the Valuation (Metrop.) Act, 1869, as to the Metropolis as defined by secs. 3 and 4 of that Act, *post*. By sec. 109 of the first-mentioned Act "the word 'owner' shall be construed to mean any person for the time being in actual occupation of any property rateable to the relief of the poor and not let to him at rack rent, or any person receiving the rack rent of any such property either on his own account or as mortgagee or other incumbrancer in possession; and the words "rack rent" shall be construed to mean any rent which shall not be less than two thirds of the full improved net annual value of any property."

(p) **Section 2.**—The words omitted from this section are repealed by the Loc. Govt. Act, 1894 (56 & 57 Vict. c. 73), sec. 89.

(q) **Assessment committee of union.**—As to the appointment of assessment committees in single parishes not included in any union where there is a vestry, see the Valuation (Metropolis) Act, 1869, sec. 5 *post*.

(r) **Poor Law Board.**—Now the Local Govt. Bd. Loc. Govt. Bd. Act, 1871 (34 & 35 Vict. c. 70).

25 & 26 Vict.  
c. 103.

such entries  
evidence.

Books to be  
open to  
inspection.

Proceedings of  
committees to  
be reported.

Committee  
may require  
returns from  
overseers, &c.;

and may  
require pro-  
duction of  
rates, &c., and  
examine  
persons  
attending  
before them.

Committee  
may enlarge  
the time for  
making valua-  
tion lists, and  
may give  
directions con-  
cerning valua-  
tions and  
valuation lists,  
and may  
appoint  
persons to  
make the  
same.  
Valuation  
lists to be  
deposited for  
inspection, and  
afterwards  
transmitted  
to the  
committee.

which the proceeding took place (s); and such entry, purporting to be so signed, shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been or being members of the committee, or of the signatures of the members, all of which facts shall be presumed until the contrary be proved; and all such books shall at all seasonable times be open to the inspection of every person rated to the relief of the poor in any parish or place in the union, without any fee being demanded for such inspection; and all such persons shall be entitled at all seasonable times to take copies or extracts from the said books, without paying any fee for the same; and if, on request made for that purpose, the clerk of the committee refuse to permit any such person to inspect any such books, or to take copies or extracts therefrom, as aforesaid, such clerk shall for every such offence be liable to a penalty not exceeding five pounds, upon a summary conviction for the same before two justices of the peace.

12. The board of guardians shall in the month of April in every year report the proceedings of their assessment committee to the *Poor Law Board* (t).

13. The committee by their order may from time to time require the overseers, assistant overseers, constables, assessors, collectors, and any other persons having the custody of any books of assessment of any taxes or rates, parliamentary or parochial, or of the valuations of any parish, or having the collection or management of any such taxes or rates, to make returns in writing to the committee, at such times and places as they may appoint, of all such particulars as they may direct in relation to such taxes, rates, or valuations, or any property included therein, so far as relates to the union for which they act, and may require the persons having the custody of any such books as aforesaid to make and transmit to the committee copies of or extracts from such books, or to permit such copies or extracts to be made by such persons as the committee may in that behalf direct; and may from time to time require any persons having the custody of any such books, or the collection or management of any such taxes or rates as aforesaid, to attend before them at a time and place to be mentioned in the order in this behalf, and to produce all parochial and public books of assessment, rates, rate books, valuations, apportionments, tithe and other maps, plans, surveys, and other public documents in their custody or power, and may examine all persons who shall attend before them: Provided always that nothing herein contained shall authorise the production of valuations or assessments which by any provision of law at present are not suffered to be made public.

14-15. [*Rep. by the Valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, post.*]

16. The committee by their order may from time to time enlarge the time within which the first valuation lists under this Act shall be made by the overseers of all or any of the parishes in the union, and for ensuring a uniform and correct valuation of every parish in the union may direct that any existing valuation of the rateable hereditaments in any parish be revised, in whole or in part, or a new valuation of such hereditaments be made by the overseers, or the committee may, with the consent of the board of guardians of the union, after notice shall have been sent to every guardian thereof, in any case appoint some person for either of the purposes aforesaid, and may direct such person to make and sign the valuation list instead of the overseers, and every valuation list so made and signed shall be delivered by such person to the overseers of the parish to which the same relates.

17. The valuation list for each parish, made and signed by the overseers, or delivered to them, as hereinbefore provided, shall be deposited by the overseers in the place in such parish in which rate books are deposited or kept (u), . . . and the overseers shall give public notice of the deposit of such list on the Sunday next following the deposit of such list (x), and such notice shall be given

(s) *Minutes signed by presiding chairman.*—In the Metropolis as defined by the Valuation (Metrop.) Act, 1869, secs. 3 and 4, the minutes may be signed by the chairman of the next meeting of the committee. *Ib.* sec. 74, *post.*

(t) *Poor Law Board.*—Now the Local Govt. Bd. See note to sec. 4, *ante.*

(u) *Section 17.*—The words omitted are repealed by the Valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, *post.*

(x) *Publication of notices.*—See note to sec. 66 of the Valuation (Metrop.) Act, 1869, *post.*



in the same manner, and all persons assessed or liable to be assessed to the relief of the poor of such parish shall have the like right of inspecting, and of demanding and taking copies of and extracts from such list (y), as in the case of a poor rate allowed by the justices, and the overseers shall, at the expiration of fourteen days from the time of the notice given of the deposit of such list, transmit the same to the committee, and any overseer or other ratepayer within the union shall have the right of inspecting and taking copies of and extracts from any of the lists so transmitted.

25 & 26 Vict.  
c. 103.

18. Any overseer or overseers of any parish in any union who shall have reason to think that such parish is aggrieved by the valuation list of any parish within such union, or any person who may feel himself aggrieved by any valuation list on the ground of unfairness or incorrectness in the valuation of any hereditaments included therein, or on the ground of the omission of any rateable hereditament from such list, may at any time after the deposit as aforesaid of such list, and before the expiration of twenty-eight days after the notice of the deposit (z) as aforesaid, give to the committee and to the overseers a notice in writing of his objection, specifying the grounds thereof, and where the ground of any objection shall be unfairness or incorrectness in the valuation of any hereditament in respect of which any person, other than the person objecting, is liable to be rated, or the omission of such hereditament, also give notice in writing of such objection, and of the ground thereof, to such other person.

Objections to  
valuation  
list.

19. The committee shall hold such meetings as they may think necessary for hearing objections to the valuation lists, and shall, twenty-eight days at least before (a) holding every meeting for hearing objections to valuation lists, other than meetings by adjournment, cause notice of such meeting to be given to the overseers of the several parishes to which such lists relate, and such overseers shall, on the Sunday next following the receipt of such notice, publish the same in the manner in which notice of a rate allowed by justices is by law required to be given (b), and the committee may at any such meeting hear and determine such objections (c), or may from time to time adjourn any such meeting, and adjourn or postpone the hearing or further hearing and determination of any such objections, and may, where they think fit, direct notice of any such objections to be given by the overseers or by the persons objecting to third parties before the hearing thereof; but the committee shall not be required to hold a meeting for hearing objections to the valuation list of any parish, unless such notice in writing as hereinbefore mentioned of some objection or objections thereto have been given to the committee; and where a meeting is holden for hearing objections to the valuation list of any parish, the committee shall not hear any objection to such valuation list unless such notice as aforesaid of such objection have been given to the committee and to the overseers; and where the ground of such objection is unfairness or incorrectness in the valuation of any hereditament of any other person than the person objecting, or the omission of such

Committee to  
hold meetings  
to hear  
objections.

(y) **Inspection, &c., of list.**—The Poor Rate Act, 1743 (17 Geo. 2, c. 3), sec. 2, requires the churchwardens, overseers, or other persons authorised to take care of the poor to allow every inhabitant of their parish or place to inspect the poor rate, of which notice has been published, at all reasonable times, paying one shilling for the same, and forthwith to give copies of the same, or any part thereof, to any such inhabitant paying at the rate of sixpence for every twenty-four names. Such churchwardens, &c., are liable to a penalty of twenty pounds for refusing or neglecting to allow such inspection or supply such copies. *Ib.*, sec. 3. See also sec. 67 of the Valuation (Metrop.) Act, 1869, *post*.

(z) **Twenty-eight days after notice of deposit.**—The effect of this section is to render void any valuation list which has been approved by an assessment committee before the expiration of twenty-eight days after public notice of the deposit of such list by the overseers, and also any rate made in conformity with such list. *Reigate Union Assessment Committee v. South Eastern Ry. Co.* (1894), 1 Q. B. 411; 63 L. J. M. C. 65.

(a) **Twenty-eight days at least before.**—This means clear days, exclusive of the day of giving the notice and of the day of meeting. *Reg. v. Shropshire JJ.*, *ante*, vol. i., p. 291.

(b) **Publication of notices.**—See note (x) on p. 1172.

(c) **Hear such objections.**—Where a notice of objection specifies an objection to the rateable value only, the assessment committee has no power, in the absence of the consent of the overseers, to hear an objection to the gross value. *Reg. v. London JJ.*, *Ex parte East London Waterworks Co.* (1897), 1 Q. B. 433; 66 L. J. Q. B. 262.

25 & 26 Vict.  
c. 103.

Committee may  
direct further  
valuation,  
and correct  
valuation lists,  
and when  
corrected to  
approve the  
same.

Valuation list  
when altered  
to be deposited,  
&c.

This Act as to  
valuation lists  
first directed  
to be made to  
apply to new  
and supple-  
mental valua-  
tion lists.  
After a  
valuation list  
is approved no

hereditament, also to such other person by the person objecting, except where the overseers, by themselves or any other person on their behalf, and in the case aforesaid such other person as aforesaid, by himself or any other person on his behalf, consent to the hearing of such objection, and in such case the committee may, if they see fit, hear the same; and where the committee see fit to hear the same they shall act in relation thereto in like manner as if notice of such objection had been duly given.

**20.** The committee may, whether any objection be or be not made to any such valuation list, and either before or after any meeting for hearing objections, make such alterations in the valuation of any hereditaments included in any valuation list, and insert therein any rateable hereditament omitted therefrom (*d*), and make such corrections in names, descriptions, and particulars in any valuation list and upon such information, as to them may seem sufficient, and may, with the consent of the guardians as aforesaid, appoint or employ a person (*e*) to survey and value the rateable hereditaments comprised in any such valuation list or any of them, or omitted therefrom, or may take such other means as they may think necessary for ascertaining the correctness thereof; and when the committee have heard and determined all such objections as aforesaid, and have made such alterations, insertions, and corrections in any valuation list as to them may seem proper, they shall approve the same under the hands of three members of the committee present at the meeting at which the same is approved, with the date of such approval.

**21.** Where the committee make any alteration in the valuation of any hereditaments included in, or insert therein any rateable hereditament omitted from, any such valuation list, they shall cause such valuation list, with such alteration or insertion, to be deposited for inspection in manner hereinbefore provided concerning the valuation list made by or delivered to the overseers (*f*), and shall cause the like notice to be given of such deposit as is required in the case of a valuation list so made or delivered as aforesaid, and shall appoint a day, not less than seven days nor more than fourteen days from the re-deposit of such valuation list, for the hearing of any objections to the valuation list as so altered; and when the committee have heard and determined any such objections, or have made such further alterations, insertions, and corrections in such valuation list, they shall approve the same in manner hereinbefore provided.

**22—26.** [*Rep. by the Valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, post.*]

**27.** All the provisions of this Act in relation to signature, deposit, objections, approval, and otherwise concerning the valuation list first directed and authorised to be made under this Act of the rateable hereditaments in any parish shall be applicable to every new or supplemental valuation list to be made under this Act.

**28.** . . . (*g*) Provided always, that where by reason of any alteration in the

(*d*) **Insert omitted hereditament.**—Houses finished and fit for occupation, but not let or occupied, which have been omitted from the valuation list made by the overseers under sec. 14, *ante*, or from a supplemental list made under sec. 25, *post*, are rateable hereditaments and should be inserted in the valuation list by the assessment committee. *Reg. v. Malden (Overseers)*, L. R. 4 Q. B. 326; 38 L. J. M. C. 125.

(*e*) **Employ a person.**—This section does not empower an assessment committee to refer the valuation of an hereditament to arbitration, and if they do so, and the award is given against them, the costs of the arbitration cannot be recovered from the committee or guardians, or from the members of the committee personally. *Leicester Waterworks Co. v. Nuttall*, 4 Q. B. D. 18; 48 L. J. M. C. 41.

(*f*) **Deposited in manner hereinbefore provided.**—Sec. 17, *ante*. It is the duty of the overseers to deposit the valuation list after alteration by the assessment committee. *Reg. v. Chorlton-on-Medlock (Overseers)* (No. 1), 35 L. J. M. C. 56; 12 L. T. (N. S.) 581. It is a condition precedent to the validity of a valuation list which has been altered by an assessment committee under sec. 20 that it should be deposited as required by sec. 21. *Reg. v. Chorlton Union (Guardians)*, L. R. 8 Q. B. 5; 42 L. J. M. C. 34. But where notice of appeal to sessions was given to an assessment committee under sec. 1 of the amending Act, 1864, *post*, it was held that it was not necessary to re-deposit the list. *Reg. v. Edmonds*, L. R. 9 Q. B. 598; 43 L. J. M. C. 156.

(*g*) **Section 28.**—The words omitted from this section are repealed by the valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, *post*.

occupation of any property included in such list such property has become liable to be rated in parts not mentioned in such list as rateable hereditaments, and separately rated therein, such parts may, where a supplemental valuation list showing the annual rateable value of such parts has not been approved and delivered as hereinbefore required, and whether such list has or has not been made, be rated according to such amounts as shall be fair apportioned parts of the annual rateable value appearing in such valuation list in force as aforesaid of the hereditaments out of which such parts have been constituted.

29. [*Rep. by the Valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, post.*]

30. When the assessment committee for any union shall have approved valuation lists for all the parishes comprised within such union, the guardians of such union, in computing the amount of contribution to the common fund for the several parishes, shall thenceforward take the annual rateable value of the property in such parishes respectively from the valuation lists for the time being lastly approved of for such parishes respectively, any statute to the contrary notwithstanding: Provided that in case any parish comprised in any union shall receive any sum of money as a contribution in aid of the poor rate of such parish, for or in respect of government property within such parish and used for public purposes, the annual value of such property according to the estimate (if any) of such value on which the amount of the sum of money so received is computed, or, if there be no such estimate, then the annual value of such property, estimated in the mode provided by the Parochial Assessments Act, 1836 (*h*), for making an estimate of the annual rateable value of property liable to be rated to rates for the relief of the poor, shall be included by the overseer or overseers in the valuation list of such parish, and shall be added to the annual rateable value of the property in such parish in computing the amount of contribution to the common fund for the several parishes in such union.

31—36. [*Rep. by the Valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, post.*]

37. The committee may allow such compensation (*i*) for any returns, copies, or extracts, or any valuation, or valuation list, or other act, matter, or thing to be made or done in pursuance of their order, and such expenses connected therewith, as to the committee in each case seems just.

38. The remuneration allowed by the committee to their clerk and all expenses incurred by them for the common use and benefit of the several parishes within the union for which they are appointed, shall be paid by the guardians of the said union, and be charged upon the common fund thereof.

39. [*Rep. by the Valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, post.*]

40. Every person who wilfully refuses to attend in obedience to any lawful order of any such committee, or to give evidence, or refuses to produce any rate book, assessment, or valuation which may be lawfully required to be produced before such committee, shall for every such offence be liable to a penalty not exceeding twenty pounds upon a summary conviction for the same before two justices of the peace; and every person who wilfully injures, defaces, conceals, or destroys such rate book, or who upon any examination before any such committee wilfully gives false evidence, shall be deemed guilty of a misdemeanour.

41—43. [*Rep. by Valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, post.*]

44. All the powers, authorities, provisions, clauses, and regulations now in force relating to the assessment, collection, and levying of poor rates (save so far as the same are hereby repealed or altered) shall be good, valid, and effectual for the purposes of assessing, levying, collecting, and enforcing the payment of such rate and for carrying this Act into execution.

(*h*) **Parochial Assessments Act, 1836.**—Secs. 1, 2, 6, 7, and 9 are repealed by the Valuation (Metrop.) Act, 1869, sec. 77, so far as relates to the Metropolis as defined by secs. 3 and 4 of that Act, *post*.

(*i*) **Allow compensation.**—An action will not lie against the guardians of a union in respect of expenses incurred by a valuer appointed by their assessment committee, and which have not been allowed by the committee under the above section. *Richardson v. Madeley Union (Guardians)*, 46 J. P. 439.

25 & 26 Vict.  
c. 103.

rate to be  
allowed unless  
made according  
to such list.

In computing  
amount of  
contributions  
to common  
fund the  
annual rateable  
value to be  
taken from  
approved  
valuation lists.

6 & 7 Will. 4,  
c. 96.

Committee may  
allow compensa-  
tion for  
returns, &c.  
and expenses.  
Remuneration  
to clerk and  
certain ex-  
penses of  
committee to  
be paid out of  
common fund.  
Penalty for  
non-attend-  
ance, &c. in  
obedience to  
order of the  
committee.  
Injuring, &c.  
rate books a  
misdemeanour.

Provisions  
concerning the  
assessment,  
&c. of poor  
rates to be  
applicable to  
rates made  
according to  
this Act.



25 & 26 Vict.  
c. 103.

45. [*Rep. by Valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, post.*]

#### SCHEDULE.

[*Form of valuation list. Superseded by the Valuation (Metrop.) Act, 1869, sec. 51 and second schedule, as to the Metropolis as defined by secs. 3 and 4 of that Act, post.*]

### UNION ASSESSMENT COMMITTEE AMENDMENT ACT, 1864 (*k*).

27 & 28 Vict. c. 39. An Act to amend the Union Assessment Committee Act, 1862. [14th July, 1864]

1. [*Rep. by the Valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, post.*]

Committee may, with consent of guardians, be respondents.

2. The assessment committee of such union may, with the consent of the guardians of such union (*l*), after notice shall have been sent to every guardian, appear as respondents (*m*) to such appeal, but in the name of the guardians of such union, in like manner, and with the same incidents, and subject to the same liabilities, and entitled to the same remedies and rights, as in the case of persons other than the overseers to whom notice of appeal may be given.

Provision as to costs of committee on appeals.

3. The costs which the committee may incur in consequence of becoming respondents to such appeal, or of having received notice thereof, shall, if not recovered from the appellants, as well as any costs the committee may be ordered to pay to the appellants, be paid by the guardians and charged to the common fund of the union, unless the court before whom such appeal is heard shall direct that such costs, or any part thereof, shall be charged to the parish the rate of which is appealed against.

Valuation to be made in writing.

4. Where a valuer is appointed by the assessment committee he shall make his valuation in writing, showing the particulars of the several hereditaments comprised therein, and the amounts at which he has valued the same respectively (*n*), and shall sign such valuation, which shall be open to inspection in like manner and with the same incidents with respect to the taking of copies or extracts as the minute books of the committee.

Notice of assessment to be given to certain companies.

5. Within fourteen days after the transmission to the assessment committee of any valuation or supplemental valuation list the committee shall give notice to every railway, telegraph, canal, gas, and water company named in such list as the occupier of any property included therein, and not having any office or place of business in the parish to which such list relates, of the sum or sums set down as the rateable value of the property purporting to be occupied by such company

(*k*) **Application of Act.**—This Act is incorporated with the Valuation (Metrop.) Act, 1869, *post*.

(*l*) **With consent of guardians.**—Where an assessment committee, with the consent of the guardians, appeared as respondents in an appeal to quarter sessions, and in subsequent appeals based on the same valuation, and entered and respited at quarter sessions to abide the result of the first appeal, they appeared as respondents, without obtaining such consent, it was held that they were not entitled to the costs of any appeal in which they had not obtained such consent. *West Ham Union v. Essex JJ. and London Coun. Couree*. (1896). A. C. 443; 65 L. J. M. C. 231.

(*m*) **Appear as respondents.**—An assessment committee who appear at special sessions with the consent of the guardians are entitled to appeal to quarter sessions on behalf of the guardians against the decision of the justices. *Reg. v. Montgomeryshire JJ.*, 50 L. J. M. C. 52; S. C. *nom. Newton, &c., Union (Guardians) v. Pryce Jones*, 45 J. P. 407.

(*n*) **Showing amounts respectively.**—Where valuers employed to value a farm gave the gross estimated rental and the rateable value for the whole farm in lump sums, it was held that the list was sufficient, and that it was not necessary to give the value of each field separately. *Rawcliffe v. Hursley Union (Guardians)*, 3 Ex. D. 44; 47 L. J. M. C. 31.

or companies, and such notice may be served by being transmitted through the post to the principal office of the company, or one of their principal offices when there shall be more than one.

27 & 28 Vict.  
c. 39.

6. No justice of the peace shall be disqualified for acting in the determination of any appeal against a poor rate at any quarter or special sessions by reason of such justice being rated, or being liable to be rated, in some other parish in the union than that for which the rate appealed against is made (o).

Justices in certain cases not disqualified for hearing appeals.

7. When the overseers of any parish incur any expense in making out any valuation list or supplemental list, or in revising or valuing any of the rateable hereditaments of such parish, under the provisions of the Union Assessment Committee Act, 1862, with the consent of the vestry (p) given by express resolution, after due notice, they may charge such expense, so far as the same may be authorised by the vestry, upon the poor rate (q); and if no vestry meeting be held, or no decision arrived at on the subject, then to the extent which the assessment committee shall allow: Provided that, as regards the valuation of the property, no expense shall be so charged upon the poor rate unless the consent of such committee to the procuring of such valuation by the overseers shall have been given previously to the same being made.

Expenses of overseers incurred with consent of vestry or allowed by assessment committee may be charged on poor rates.

8. If the assessment committee order a valuation, with the consent of the board of guardians, to be made of all the rateable hereditaments of any parish, the guardians of the union may, if they think fit, apply to the *Poor Law Board* (r) for an order to enable them to borrow the requisite amount to pay the cost of such valuation; and if the said board shall issue their order, the said guardians may borrow the same and charge the poor rates of the several parishes in the union with the repayment of the same by not more than five equal annual instalments, and where the parish for which the valuation is made shall, by reason of any provision in the said Union Assessment Committee Act or this Act, be liable to pay the cost of such valuation, the said guardians shall charge the annual instalments, and the interest payable therewith, to such parish, and may recover the same as and with the usual contributions.

Power to guardians with the order of the Local Government Board to borrow money for valuation expenses.

9. [*Rep. by the Valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, post.*]

10. If there be no map or plan of any parish available for the use or sufficient for the purposes of the assessment committee, the committee may, with the consent of the guardians, after notice as aforesaid, and under the authority of an order of the *Poor Law Board* (r), appoint a competent person to make a map or plan of such parish, and the cost thereof shall be charged either to the common fund or to the parish, as may be directed by the *Poor Law Board* (r).

Power to Local Government Board to order map or plan to be made.

11. [*Rep. by the Valuation (Metrop.) Act, 1869, sec. 77, as to the Metropolis as defined by secs. 3 and 4 of that Act, post.*]

12. The provisions of the Union Assessment Committee Act, 1862, shall, so far as the same are not contrary hereto, be incorporated herewith, and the terms used herein shall be construed in like manner as in that Act.

25 & 26 Vict.  
c. 103 incorporated herewith.  
Short title.

13. This Act may be cited as "The Union Assessment Committee Amendment Act, 1864."

(n) **Justices not disqualified.**—Justices sitting in special sessions are within sec. 1 of the Justices Jurisdiction Act, 1742 (16 Geo. 2, c. 18), and are not disqualified from adjudicating on an appeal by reason of their being themselves chargeable with the rate in respect of which the appeal is brought. *Reg. v. Bolingbroke* (1893), 2 Q. B. 347; 62 L. J. M. C. 680; *Workington Overseers, Ex parte* (1894), 1 Q. B. 416; 58 J. P. 381.

(p) **Consent of vestry.**—It is sufficient if the consent of the vestry be given after the expenses have been incurred. *Reg. v. Chorlton-upon-Medlock (Overseers)* (No. 2), 1 Q. B. D. 62; 45 L. J. M. C. 33.

(q) **Charge expense upon poor rate.**—The preparation of the valuation list is not among the general duties of a vestry clerk appointed under the Vestries Act, 1850 (13 & 14 Vict. c. 57), and a reasonable allowance for his work and outlay in preparing the list is valid, and may be charged upon the poor rate. *Reg. v. Cumberlege*, 2 Q. B. D. 366; 46 L. J. M. C. 214.

(r) **Poor Law Board.**—Now the Local Govt. Bd. Loc. Govt. Bd. Act, 1871 (34 & 35 Vict. c. 70).

## VALUATION (METROPOLIS) ACT, 1869.

**32 & 33 Vict. c. 67.** An Act to provide for Uniformity in the Assessment of Rateable Property in the Metropolis.

[9th August, 1869]

*Preliminary.*

- Act to be construed as one with 25 & 26 Vict. c. 103 and 27 & 28 Vict. c. 39.
- 1.** The Union Assessment Committee Act, 1862, is in this Act referred to as "the principal Act"; and the principal Act, and the Union Assessment Committee Act, 1864<sup>(s)</sup> (amending the same), shall for the purposes of this Act, and so far as is consistent with the tenor thereof, be incorporated with this Act; and the expression "this Act" in the principal Act, and any expression referring to the principal Act which occurs in the said Act amending the same, or in any other Act or document, shall, as regards places to which this Act extends, be construed to mean the principal Act as incorporated with this Act.
- Short title. **2.** This Act (including the Acts incorporated herewith) may be cited as The Valuation (Metropolis) Act, 1869.
- Extent of Act. **3.** This Act shall extend only to unions and parishes not in union, which are for the time being either wholly or for the greater part in value thereof respectively situate within the jurisdiction of the *Metropolitan Board of Works* appointed under The Metropolis Management Act, 1855<sup>(t)</sup>.
- 18 & 19 Vict. c. 120.
- Definitions. **4.** In this Act, unless the context otherwise requires—
- "Metropolis :—" The term "Metropolis" means the unions and parishes to which this Act extends :
- "Parish :—" The term "parish" means any place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed :
- "Union :—" The term "union" means any union of parishes, and any parish for which there is a separate assessment committee under this Act and the Acts incorporated herewith :
- "Ratepayer :—" The term "ratepayer" means every person who is liable to any rate or tax in respect of property entered in any valuation list :
- "Year :—" The term "year" means the twelve months commencing with the sixth of April and ending with the succeeding fifth of April; and words referring to a year refer to the same period :
- "Surveyor of taxes :—" The term "surveyor of taxes" means any surveyor of taxes, inspector of taxes, or other officer appointed or to be appointed by the commissioners either of Inland Revenue or Her Majesty's Treasury for the purposes of any tax in respect of which a valuation list is by this Act made conclusive :
- "Overseers :—" The term "overseers" includes any person or body of persons performing the duties of overseers so far as regards the assessment, making, and collection of rates for the relief of the poor :
- "Vestry clerk :—" The term "vestry clerk" means the vestry clerk, if any, elected under the Vestries Act, 1850, or under a local Act, or, if there is no such clerk, the vestry clerk appointed under "The Metropolis Management Act, 1855<sup>(u)</sup>" :
- 13 & 14 Vict. c. 57.
- "Hereditament :—" The term "hereditament" means any lands, tenements, hereditaments, and property which are liable to any rate or tax in respect of which the valuation list is by this Act made conclusive :
- "Gross value :—" The term "gross value" means the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for an hereditament, if the tenant undertook to pay all usual tenant's rates and taxes, and tithe commutation rentcharge, if any, and if the landlord undertook to bear the cost of the repairs and insurance, and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent :

<sup>(s)</sup> **Union Assessment Committee Acts, 1862 and 1864.**—*Ante*.

<sup>(t)</sup> **Extent of Act.**—The jurisdiction of the Met. Bd. Wks. extended to the whole of the Metropolis as defined by sec. 250 of the Met. Man. Act, 1855, *ante*, vol. i., which now constitutes the administrative county of London, under the jurisdiction of the London County Council. Loc. Govt. Act, 1888, sec. 40 (1) and (8) and sec. 100, *ante*, vol. i. The hamlet of Penge, which is in the Croydon union, the greater part in value whereof is situate without the county, is the only part of the administrative county of London to which the Act does not extend. See Statement of Poor Law Unions presented to Parliament in 1887, C. 5191.

<sup>(u)</sup> **Metrop. Man. Act, 1855.**—*Ante*, vol. i.



The term "rateable value" means the gross value after deducting therefrom the probable annual average cost of the repairs, insurance, and other expenses as aforesaid :

The Acts specified in the first schedule to this Act are in this Act referred to by the short title placed opposite to them in that schedule (x).

32 & 33 Vict.  
c. 67.

"Rateable  
value:"

*Assessment Committee.*

5. Where, in any parish which is not included in any union (y) formed under the Poor Law Amendment Act, 1834, and the Acts amending the same, there is for the time being a vestry elected according to the provisions of the Metropolis Management Act, 1855 (z), but no assessment committee under the principal Act, the following provisions shall have effect :

Election of  
assessment  
committee in  
single parish  
where there is  
a vestry.

- (1) Where in any such parish there is a board of guardians having power under any local Act to assess or make the rates for the relief of the poor, that board of guardians shall appoint an assessment committee :
- (2) Where any two of such parishes are united under a local Act for the purpose of assessing or making the rates for the relief of the poor, the guardians for such united parishes elected in pursuance of the Poor Law Amendment Act, 1834, and the Acts amending the same, shall appoint an assessment committee :
- (3) In cases other than those before-mentioned the vestry of such parish shall appoint an assessment committee :
- (4) . . . every . . . year the body who appoint an assessment committee under this section shall on a day fixed by such body between the fifteenth and twenty-ninth of April in that year, or some other day fixed by the *Poor Law Board* (a), hold a meeting, and appoint from among themselves an assessment committee (consisting of not less than six nor more than twelve in number) in the same manner, as near as may be, as if the parish or united parishes were an union and the appointing body a board of guardians within the meaning of the principal Act.

All the provisions of this Act and the Acts incorporated herewith shall—

- (a) in cases where the assessment committee is appointed by guardians under this section be construed as if such guardians, and the moneys applicable by such guardians for the relief of the poor were the guardians mentioned in the principal Act and the common fund ; and—
- (b) in cases where the assessment committee is appointed by the vestry be construed, so far as is consistent with the tenor thereof, as if the terms vestry, members of the vestry, vestry clerk, assistant vestry clerk, and moneys applicable to the payment of the expenses of a vestry under the Metropolis Management Act, 1855 (z), were respectively substituted for the terms board of guardians, guardians, clerk of the board of guardians, assistant clerk of the board of guardians, and common fund, but nothing in such Acts relating to ex-officio guardians shall have any application in the case of a vestry.

*Making of Valuation Lists.*

6. The overseers of every parish to which this Act extends, within the time in this Act mentioned (b), shall make and sign a valuation list of their parish in duplicate, in accordance with this Act.

Making of  
valuation lists.

7. After the valuation list is signed by the overseers the same proceedings shall be had as are directed by the seventeenth, eighteenth, nineteenth, twentieth, and twenty-first sections of the principal Act, subject to the alterations made by this Act.

Valuation lists  
to be dealt  
with under  
25 & 26 Vict.  
c. 103, ss. 17  
to 21.  
Duplicate sent  
to surveyor  
of taxes.

8. The overseers shall send one duplicate of the valuation list to the surveyor of taxes of the district at the same time that the other duplicate is deposited by

(x) **Acts referred to.**—In this work the Acts specified are referred to by the short titles given by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(y) **Parish not in union.**—As to the appointment of assessment committees in unions, see the Union Assessment Committee Act, 1862, *ante*.

(z) **Metrop. Man. Act, 1855.**—*Ante*, vol. i.

(a) **Poor Law Board.**—Now the Local Govt. Bd. Loc. Govt. Bd. Act. 1871 (34 & 35 Vict. c. 70).

(b) **Time in this Act mentioned.**—See sec. 42, *post*.

32 & 33 Vict.  
c. 67.

Notice to  
occupier of  
alteration of  
value, &c.

Notice to  
state time and  
mode of  
objection.  
Grounds on  
which persons  
may object  
before assess-  
ment commit-  
tee.

Surveyor of  
taxes, &c.  
may inspect,  
copy, and  
object to  
valuation list.  
If overseers do  
not transmit  
list, committee  
to appoint a  
person to do so.

Valuation list  
to be revised,  
certified, and  
sent to over-  
seers, &c.

Deposit of  
duplicate of  
list in each  
parish.

them. The surveyor of taxes shall insert in the duplicate so sent to him the amount in his opinion of the gross value of the hereditaments comprised in such list where such amount differs from the amount inserted by the overseers, and shall transmit the duplicate to the assessment committee within twenty-eight days after he has received the same.

9. In each of the following cases; namely,

- (1) Where the overseers of the parish insert in the valuation list some hereditament not previously assessed, or raise the gross or rateable value of some hereditament above the value stated in the valuation list for the time being in force or (where there is no valuation list) in the then last assessment to the poor rate, or
- (2) Where the assessment committee (otherwise than in determining an objection) alter a valuation list by inserting therein some hereditament, or by raising the gross or rateable value of some hereditament comprised therein, the overseers shall immediately after the deposit or re-deposit of the list (as the case may be) serve on the occupier of such hereditament a notice of the gross and rateable value thereof inserted in the valuation list.

10. The notice of the deposit and re-deposit of the valuation list published by the overseers shall state the times at which and the mode in which objections are to be made.

11. Objections may be made before the assessment committee by any person (c) authorised by this Act and the Acts incorporated herewith to object who feels himself aggrieved by reason of the unfairness or incorrectness of the valuation of any hereditament, or by reason of the insertion or incorrectness of any matter in the valuation list, or by reason of the omission of any matter therefrom, or by reason of such valuation list as is required by this Act not having been transmitted by the overseers to the assessment committee. The notice of objection shall specify the correction which the objector desires to be made (d).

12. A surveyor of taxes, and any ratepayer in the parish, shall have the same right of inspecting, copying, taking extracts from, and objecting to any valuation list which relates to his district or parish as is given to any person by this Act and the Acts incorporated herewith.

13. If the overseers of any parish fail to transmit such a valuation list as is required by this Act, the assessment committee shall appoint some person to make a valuation list, and may allow such person such remuneration in addition to his expenses as they think fit; and all expenses incurred by the assessment committee in pursuance of this section shall be paid by the guardians, and charged by them to such parish.

The person so appointed shall have for the purposes of this section the same powers and duties as overseers, and the valuation list so made shall be dealt with in the like manner as if it had been duly made and transmitted by the overseers.

14. The assessment committee, within the time in this Act mentioned (e), shall revise the valuation list in accordance with this Act and the Acts incorporated herewith. When they have finally approved such valuation list, they shall cause the totals of the gross and rateable value in such list to be ascertained and inserted in the list, and three members of the committee present at the meeting at which the list is finally approved shall sign at the foot thereof such declaration of approval and certificate of compliance with this Act as is contained in part one of the second schedule to this Act. One duplicate, so certified, shall be sent to the clerk of the managers of the metropolitan asylum district (f), and the other duplicate to the overseers of the parish to which it relates.

15. The overseers of the parish, on receiving the duplicate of the valuation list so sent to them by the assessment committee, shall immediately deposit it in

(c) Any person.—An objector may appear by his agent. *Reg. v. St. Mary Abbott's, Kensington (Assessment, Comm.)* (1891), 1 Q. B. 378; 60 L. J. M. C. 52.

(d) Specify correction.—See *Reg. v. London J.J. Ex parte East London Waterworks Co.*, ante, p. 1173.

(e) Time in this Act mentioned.—See sec. 42, post.

(f) Clerk of metropolitan asylum district.—Now the clerk of the county council. *Loc. Govt. Act, 1888*, sec. 44, ante, vol. i.

the place in which the rate books of the parish are kept, and shall publish notice of such deposit, and of the time and mode of making appeals, and of the grounds on which an appeal is allowed by this Act to be made.

16. The certified valuation list so sent to the *clerk of the managers of the metropolitan asylum district* (g) by the assessment committee shall be deposited at the office of such managers, and within the time in this Act mentioned shall be returned by such clerk to the same assessment committee.

17. The *clerk of the managers of the metropolitan asylum district* (g) shall, within the time in this Act mentioned, cause the totals of the gross and rateable values of all the valuation lists to be printed, and a printed copy of all such totals to be sent to every assessment committee, and the overseers of every parish in the Metropolis and in every county in which any parish to which any of such totals relate is situate, to the clerks of the peace for every such county, to the commissioner of the metropolitan police, the corporation of the City of London, the *Metropolitan Board of Works* (h), every district board in the Metropolis, and the *Poor Law Board* (i). Every assessment committee, overseer, and ratepayer within the Metropolis and every such county shall respectively be entitled to have printed copies of such totals on payment of one penny for each copy of all the said totals.

#### *Appeals.—Special Sessions.*

18. In every petty sessional division in the Metropolis the justices of the peace acting in and for such division shall, in every year at the time mentioned in this Act (k) hold a special sessions for hearing appeals under this Act against the valuation lists of the several parishes within such division.

19. Any ratepayer (l) and any overseers of a parish, so far as respects the valuation list of such parish, and any surveyor of taxes, so far as respects the valuation list of any parish in the petty sessional division, may, if he or they feel aggrieved by any decision of the assessment committee on an objection made with respect to the unfairness or incorrectness of the valuation of any hereditament included in such list, but not otherwise, appeal against such decision to the special sessions. The right to appeal to special sessions shall not deprive a person of any other right of appeal conferred on him by this Act.

20. The justices in special sessions under this Act shall not hear any appeal touching any matter with respect to which notice of appeal to the *general assessment sessions* (m) has been served in manner prescribed by this Act, and shall not hear any appeal touching any part or alter any part of the valuation list except the part relating to the value of an hereditament; and a decision of such justices and an alteration by them of the value of an hereditament in the valuation list of any parish shall affect only the rights of the ratepayers of such parish among themselves, and shall not of itself in any way alter the totals of the gross or rateable value of such list as settled by the assessment committee, but may form a reason for an appeal against such totals to the assessment sessions and superior court as hereinafter mentioned.

21. The justices in special sessions under this Act may adjourn their court from time to time, as may be necessary for the performance of their duties under this Act. They shall have with respect to the attendance and examination of witnesses, the taking of evidence, the keeping order in court, the enforcing their orders, and all matters necessary for the execution of their duties under this Act, the same powers and jurisdiction as if they were assembled in petty sessions.

22. The justices in special sessions shall send a written notice of the time and place at which they will hold a special sessions for the purpose of hearing appeals

32 & 33 Vict.  
c. 67.

Deposit of list at office of the managers of metropolitan asylum district.

Printing and distribution of totals of gross and rateable value in valuation list.

Holding of special session to hear appeals.

Persons entitled to appeal to special sessions.

Extent of jurisdiction of special sessions.

Powers of special sessions.

Notice by special sessions of time of sitting.

(g) *Clerk of metropolitan asylum district.*—See note (f) on page 1180.

(h) *Met. Bd. Wks.*—Now the London County Council. *Loc. Govt. Act, 1888*, sec. 40 (8), *ante*, vol. i.

(i) *Poor Law Bd.*—Now the Local Govt. Bd. See note to sec. 5 (4), *ante*.

(k) *Time mentioned in Act.*—See sec. 42, *post*.

(l) *Any ratepayer.*—An owner or lessee who is liable to be assessed, or does in fact pay the rates in the place of the occupier or tenant, is deemed to be the person referred to as the ratepayer in this section. *Valuation (Metrop.) Amend. Act, 1884*, sec. 2, *post*.

(m) *General assessment sessions.*—Now the quarter sessions. See note to sec. 23, *post*.



32 & 33 Vict. with respect to any parish to the overseers of such parish, who shall publish it as  
c. 67. soon as it is received by them.

*Appeals.—Assessment Sessions.*

Court of  
general  
assessment  
sessions.

23. For the purpose of hearing appeals under this Act against any valuation list in the Metropolis, the justices of the peace appointed as hereinafter mentioned shall at the time mentioned in this Act (*n*) assemble and hold a court of *general assessment sessions* (in this Act referred to as the *assessment sessions*) (*o*).

24. [*Appointment of members of general assessment sessions obsolete (o).*]

Officers of  
general  
quarter  
sessions.  
  
Chairman,  
quorum, and  
powers of  
general  
quarter  
sessions.

25. The *justices in assessment sessions* (*o*) may from time to time appoint, with the consent of the *Poor Law Board* (*p*), a clerk, and other persons to assist them in the performance of their duties under this Act, and may assign him or them such remuneration and such duties as the *Poor Law Board* (*p*) may approve.

26. The *justices in assessment sessions* (*o*) may from time to time appoint one of their own number to act as their chairman (*q*), who shall have a second or casting vote, and they may from time to time determine on their quorum so that it be not less than three.

The court of *general assessment sessions* (*o*) may adjourn from time to time, as may be necessary for the performance of their duties under this Act, and (for the purpose of giving judgment only) from place to place in the Metropolis. They shall with respect to the attendance and examination of witnesses, to the taking of evidence, to the keeping of order in court, to contempt of court, to the enforcement of their orders, and to all matters necessary for the execution of their duties under this Act, have the same jurisdiction and powers and be in the same position as a court of quarter sessions; and, subject to the express provisions of this Act, shall conduct their proceedings, be convened, and be in the same position, as near as may be, as if they were a court of quarter sessions.

Orders as to  
proceedings  
and recog-  
nizances on  
appeals.

27. The *justices in assessment sessions* (*o*) may, with the approval of one of Her Majesty's principal Secretaries of State, make orders from time to time for the purpose of regulating the proceedings on appeals to them under this Act (*r*), and for determining the recognizances (if any) to be entered into by appellants in the case of appeals either to special sessions or to the *assessment sessions* (*o*).

Fees on  
appeals  
under Act.

28. The *justices in assessment sessions* (*o*) may make a table of the fees which in their opinion should be paid to the clerks of special sessions and to the clerk of *assessment sessions* (*o*) in the case of appeals under this Act (*r*), and shall lay such table before one of Her Majesty's principal Secretaries of State in the same manner as the justices at quarter sessions may make and lay before such Secretary of State a table of fees (*s*), and all the provisions of section thirty of the Summary Jurisdiction Act, 1848 (which section relates to a table of fees and to the prohibition of clerks taking other fees), shall apply in the case of a table of fees made, and the business done by the said clerks under this Act.

11 & 12 Vict.  
c. 43.

(*n*) **Time mentioned in this Act.**—See sec. 42 (13), *post*.

(*o*) **General assessment sessions.**—The Loc. Govt. Act, 1888, sec. 42 (10), *ante*, vol. i., substitutes the quarter sessions for the county of London for the general assessment sessions under this Act, with all their jurisdiction in the same area. Upon the hearing of any appeals in relation to property in the City of London such two members of the court of quarter sessions of the City of London as may be appointed by that court for the purpose shall be entitled to attend and sit as members of the quarter sessions for the county of London. *Ib.* See also the scheme of the county council for regulating the holding of courts of quarter sessions and the orders regulating the proceedings on appeals under the present Act, *ante*, tit. "*Quarter Sessions*."

(*p*) **Poor Law Bd.**—Now the Local Govt. Bd. See note to sec. 5 (4), *ante*.

(*q*) **Chairman.**—The chairman and deputy chairman of the quarter sessions for the county of London are appointed by the Crown. Loc. Govt. Act, 1888, sec. 42 (1), *ante*, vol. i. In case of their temporary absence, deputies are appointed by a Secretary of State. Quarter Sessions (London) Act, 1896, sec. 2, *ante*, tit. "*Quarter Sessions*."

(*r*) **Proceedings on appeal.**—See the orders now in force, *ante*, tit. "*Quarter Sessions*."

(*s*) **Tables of fees** to be paid to the clerks of special sessions and to the clerk of the court in case of appeals under this Act were made by the chairman of quarter sessions of the county of London on March 31st, 1890, and approved by the Home Secretary on April 16th, 1890.

All fees paid in the case of appeals to the assessment sessions shall be paid to the account of the receiver of the metropolitan common poor fund (t), and shall be so paid and taken and accounted for in such manner as the *Poor Law Board* (u) may from time to time by order prescribe.

32 & 33 Vict.  
c. 67.

29. The justices in assessment sessions (x) shall from time to time appoint the place in the Metropolis where the appeals relating to each parish in the Metropolis are to be heard, and may, if they think fit, divide the Metropolis into districts for the purpose of appeals, and appoint one or more places for every such district.

Places for  
hearing  
appeals.

30. The justices in assessment sessions (x) shall cause public notice to be given of the several times at which they will sit at the several places appointed for the hearing of appeals; such notice may be given under the hand of their clerk, and shall be given by advertisement in some newspaper circulating generally in the Metropolis and by sending a copy of such notice to every surveyor of taxes in the Metropolis, to every assessment committee which would have a right to appeal at such court, and to the overseers of every parish to which any appeal relates, and to all the parties to the appeal.

Public notice  
of times of  
holding courts  
to be given.

The overseers shall publish the notice as soon as it is received by them.

31. The justices in assessment sessions (x) may order any clerk to the Commissioners of Taxes, any surveyor of taxes, clerk of assessment committee, overseer, assistant overseer, or like officer in the Metropolis to produce any documents relating to rates or taxes which such justices may consider necessary for determining an appeal, and do not relate to profits of trade or of concerns in the nature of trade.

Summons of  
certain officers  
as witnesses.

Any person who refuses, after tender of a reasonable sum for his expenses, to obey any order under this section shall be liable (on summary conviction before the justices in assessment sessions (x) or any other two justices) to a penalty not exceeding five pounds.

32. Any ratepayer (y) and any surveyor of taxes, and any overseer, with the consent of the vestry of his parish, who may feel aggrieved by any decision of the assessment committee, on an objection made before them (z) to which he was a party, or by any decision of special sessions, whether he was a party or not, may appeal against such decision to the assessment sessions (x).

Persons  
entitled to  
appeal to  
quarter  
sessions.

Any assessment committee in the Metropolis, or in the county in which the parish to which the appeal relates is situate, any overseers in the Metropolis or such county, with the consent of the vestry of their parish, any ratepayer (y) in the Metropolis or such county, and any body of persons authorised by law to levy rates or require contributions payable out of rates in the Metropolis or such county, may appeal to the assessment sessions (x), if they or he feel aggrieved by reason—

- (1) of the total (a) of the gross value of any parish being too high or too low;
- (2) of the total (a) of the rateable value of any parish being too high or too low; or
- (3) of there being no approved valuation list for some parish.

(t) **Metropolitan common poor fund.**—As to the constitution and nature of this fund, see note to sec. 94 of the Loc. Govt. Act, 1888, *ante*, vol. i.

(u) **Poor Law Bd.**—Now the Local Govt. Bd. See note to sec. 5 (4), *ante*.

(x) **Assessment sessions.**—See note (o) on page 1182.

(y) **Any ratepayer.**—An owner or lessor who is liable to be assessed, or who does in fact pay the rates in the place of the occupier or tenant, is deemed to be the person referred to as the ratepayer in this section. Valuation (Metrop.) Amend. Act, 1884, sec. 2, *post*.

(z) **On objection made.**—An appeal to quarter sessions lies from a decision of the assessment committee only on an objection notice of which has been duly given to the committee. *Reg. v. London J.J. Ex parte East London Waterworks Co.*, *ante*, p. 1173.

(a) **Appeal against total.**—The reduction on appeal of specific hereditaments does not alter the totals of the gross and rateable values appearing in the valuation list. *Reg. v. Woolwich Union (Guardians)* (1891), 2 Q. B. 712; 60 L. J. Q. B. 665. The county council appealed against the totals of the gross and rateable values of a parish on the ground that a large number of specified hereditaments were assessed below their true value. *Held*, that assuming—but without deciding—that the county council were “aggrieved” within the meaning of the above section, there was, nevertheless, no right of appeal against the totals upon the ground that particular hereditaments were assessed below their value. *London Coun. Council v. St. George’s Union Assessment Committee* (1894), A. C. 600; 64 L. J. Q. B. 48.

32 & 33 Vict.  
c. 67.

Notice of  
appeal to  
special or  
quarter  
sessions.

Sessions to  
hear and  
determine  
appeals, and  
alter list  
accordingly.

Making of  
valuation list  
where none  
approved.

*Proceedings on Appeals.*

**33.** Notice in writing of every appeal, whether to special sessions or the *assessment sessions* (*b*), specifying the correction which the appellant desires to have made in the valuation list (*c*), must be served, within the time in this Act mentioned, on the following persons: namely,

in all cases on the surveyor of taxes of the district to which the appeal relates, and on the clerk of the assessment committee which approved the list wholly or partly questioned by the appeal:

when the appeal relates to the unfairness or incorrectness of the valuation of, or to the omission of an hereditament occupied by any person other than the appellant, or to the incorrectness of any matter stated in the list with respect to any such hereditament, then on such person (*d*):

if an assessment committee or a surveyor of taxes is the appellant, then also on the overseers of the parish to which the appeal relates:

Provided that it shall not be necessary to serve any notice of appeal on the surveyor of taxes in any case in which the appeal relates only to the rateable value of any hereditament.

The clerk of the assessment committee, on receiving notice of an appeal, shall forthwith serve notice thereof on the clerk of the special sessions or of the *assessment sessions* (*b*), as the case may require.

**34.** The justices in special sessions and in *assessment sessions* (*b*) respectively shall, in open court, hear and determine (*e*) all appeals brought before them in such order as they may respectively from time to time appoint. They may adjourn the hearing from time to time, and to any day not later than the day before which all appeals to them are required by this Act to be heard; and in the case of *assessment sessions* (*b*) for the purpose of obtaining the decision of any superior court to any day necessary for that purpose; and if from accident or mistake due notice of appeal has not been given, or if an additional notice of appeal appears to be required, they may, if they think it just, order notice of appeal to be given. They may confirm or alter the valuation list, so far as it is questioned by the appeal, in such manner as they think just, but shall not make any alteration in contravention of this Act. The clerk of the assessment committee, or some deputy allowed by the assessment committee, shall attend the court with the valuation list to which the appeal relates, and any alteration shall be made by the justice acting as chairman (*f*) of the sessions in that list, and the said justice shall place his initials against such alteration.

**35.** If it appears to the justices in *assessment sessions* (*b*) on any appeal that there is no approved valuation list for some parish, they may appoint some proper person (with such remuneration as they may appoint) to make a valua-

(*b*) **Assessment sessions.**—Now the quarter sessions. See note to sec. 23, *ante*.

(*c*) **Notice specifying correction.**—Any occupier or ratepayer may include in one notice the whole or any one or more hereditaments separately assessed and comprised in one valuation list of which he is or is deemed to be the occupier or ratepayer. Valuation (Metrop.) Act, 1884, sec. 3, *post*.

(*d*) **Hereditament occupied by person other than appellant.**—An appeal by the assessment committee of a union under sec. 32 (1) and (2), *supra*, against the valuation list of a parish comprised in the union, in which the appellants sought to have the total values increased by showing that the assessments in the valuation list of a large number of specified hereditaments were too low, was held not to be an appeal relating to the "unfairness or incorrectness of the valuation of an hereditament occupied by any person other than the appellant," and therefore notice of appeal need not be served upon the occupiers of the specified hereditaments. *Reg. v. General Assessment Sessions*, 17 Q. B. D. 394; 50 J. P. 724. The words apply only to appeals in which it is objected that the valuation of particular hereditaments is unfair or incorrect so far as it affects the assessments of the ratepayers of a parish *inter se*. *Ib*.

(*e*) **Hear and determine.**—The county council appealed against the totals of the assessments of certain parishes. A compromise was, however, effected before the hearing, but the magistrates refused to alter the totals in the valuation list to those agreed upon, in the absence of detailed accounts showing how the new totals were arrived at. *Held*, that the magistrates had acted upon considerations apart from the facts which they ought not to have taken into account, and had therefore not heard and determined accordingly. *Reg. v. Edlin*, 55 J. P. 790; 65 L. T. (N. S.) 83.

(*f*) **Chairman.**—See note to sec. 26, *ante*.



tion list. Such person shall have for that purpose the same powers and duties as overseers.

The valuation list so made shall be deposited and otherwise made known to the persons interested in such manner as the court may direct, but in manner as near as may be as is provided in this Act with respect to the list originally made.

The costs of making such valuation list shall be paid by the assessment committee who failed to approve the list, and shall be deemed part of their expenses under the principal Act.

**36.** If any of the parties to the appeal apply to the justices in assessment sessions (*g*) to direct a valuation of any hereditament with respect to which any appeal may be made, and if such applicant or applicants give such security as the court think proper to pay the costs of the valuation, the court may, in their discretion, appoint some proper person to make such valuation.

**37.** Where the court appoint a person to make a valuation list or a valuation, they may fix some subsequent day, either before or after the day before which all appeals are required by this Act to be heard, for receiving such valuation list or valuation, and may adjourn the hearing to that day.

**38.** The person so appointed to make a valuation shall make his valuation in writing signed by him, showing the particulars of the hereditaments comprised therein, and the amounts at which he has valued the same respectively.

Such person may at all reasonable times, with or without assistants, enter upon any of the hereditaments directed to be valued, and may do thereon all acts necessary for completing the valuation.

**39.** The costs of any appeal, including the costs of any such valuation as aforesaid, shall be in the discretion of the justices in special or *assessment sessions* (*g*) (as the case may be), and shall be awarded by them to be paid by such parties to the appeal, and in such proportions, as they think just.

Costs (including the costs of making a valuation) so ordered to be paid may be recovered as if they had been awarded by a court of quarter sessions, and when ordered to be paid by parties other than a ratepayer shall be paid as in this Act mentioned.

**40.** The same proceedings may be had by special case and certiorari or otherwise, for questioning any decision of the justices in *assessment sessions* (*g*) as may be had for questioning any decision of the justices in general or quarter sessions, provided that every such certiorari shall be sued out within three months after the decision is given.

At any time after notice given of appeal under this Act to the *assessment sessions* (*g*) it shall be lawful for the parties, by consent and by order of any judge of one of the superior courts of common law at Westminster (*h*), to state the facts of the case in the form of a special case for the opinion of any of those courts, and to agree that a judgment in conformity with the decision of that court, and for such costs as that court may adjudge, may be entered on the application of either party at the meeting of the justices in *assessment sessions* (*g*) next or next but one after such decision has been given, and such judgment may be entered accordingly, and shall be of the same effect in all respects as if the same had been given by the *assessment sessions* (*g*) upon an appeal duly brought before them and adjourned; and the justices shall, if necessary, hold a sessions or an adjourned sessions for this purpose.

Notice in writing of the decision of any superior court in pursuance of this section shall be served by the clerk of the *assessment sessions* (*g*) on the assessment committee which approved the list questioned on the appeal to such court.

**41.** Notice of every alteration in the valuation list, which alteration is made in consequence of any decision on any appeal to the special sessions, *assessment sessions* (*g*), or a superior court, shall, as soon as possible, be sent in writing by the clerk of the assessment committee to the overseers and surveyor of taxes of the parish and district respectively to which the list which is so altered relates, and such alteration shall be entered by the clerk of the assessment committee and by the overseers on the duplicates respectively deposited with them.

32 & 33 Vict.  
c. 67.

Quarter sessions may, on application of party to appeal, order valuation.

Adjournment to receive valuation list or valuation.

Valuation to be in writing, person making it to have power to enter.

Costs of appeal.

Appeal from decision of quarter sessions on points of law.

Notice of alteration of list to be sent to overseers.

(*g*) **Assessment sessions.**—Now the quarter sessions. See note to sec. 23, *ante*.

(*h*) **Superior courts at Westminster.**—Now the High Court of Justice. Judicature Act, 1873 (36 & 37 Vict. c. 66), secs. 3 and 4.

32 & 33 Vict.  
c. 67.

Notice of every alteration in the total of the gross and rateable value of any valuation list, which alteration is made in consequence of any decision on any appeal to the *assessment sessions* (i) or a superior court, shall as soon as possible be sent in writing by the clerk of the assessment committee to the clerk of the *managers of the metropolitan asylum district* (k), and the clerk of such managers shall send in writing such altered total to every person and body of persons who has power to levy or make any rate or assessment or require any contribution based on such total.

*Times for Proceedings.*

Times within  
which pro-  
ceedings in  
making  
valuation list  
are to be done.

42. With respect to the times within which proceedings under this Act and the Acts incorporated herewith are to be done, the following provisions shall have effect; that is to say (l).

- (1) The overseers shall make and deposit the valuation list before the first of June in the first year after the passing of this Act:
- (2) The overseers shall transmit the valuation list to the assessment committee not sooner than fourteen and not later than seventeen days after notice is given of the deposit of such list:
- (3) Notice of any objection by any person other than the surveyor of taxes and the overseers shall be given before the expiration of twenty-five days after the list is deposited:
- (4) The assessment committee shall revise the valuation list before the first of October in the same year, and before the same day, but not less than sixteen days after the transmission of the list to them by the overseers, shall hold a meeting for hearing objections to such list:
- (5) The assessment committee shall give notice of a meeting for hearing objections to a list not less than sixteen days before such meeting:
- (6) Notice of objection with respect to any list by the surveyor of taxes and by the overseers shall be given not less than seven days before the meeting at which objections to such list will be heard by the assessment committee:
- (7) The assessment committee shall send the valuation list to be re-deposited within three days after it is approved by them, and shall appoint a day not less than fourteen nor more than twenty-eight days after such re-deposit for hearing objections to the alterations, of which objections seven days' notice shall be given by the objector:
- (8) The assessment committee shall finally approve and send the valuation list to the overseers, and the *clerk of the managers of the metropolitan asylum district* (k), before the first of November in the same year:
- (9) Notices of appeal to special sessions shall be given on or before the twenty-first of November in the same year:
- (10) The justices may hold the special sessions at any time after the thirtieth of November in the same year, which will enable them to determine all appeals before the ensuing first of January:
- (11) The clerk of the *said managers* (k) shall send out the printed totals before the first of December in the same year, and shall return the valuation list to the assessment committee not sooner than fourteen nor later than twenty-one days after the totals are sent out:
- (12) Notices of appeals to *assessment sessions* (m) shall be given on or before the fourteenth of January in the same year:

(i) *Assessment sessions.*—Now the quarter sessions. See note to sec. 23, *ante*.

(k) *Clerk of managers of metropolitan asylum district.*—Now the clerk of the county council. Loc. Govt. Act, 1888, sec. 44, *ante*, vol. i.

(l) *Time in which proceedings are to be done.*—The provisions of this section are directory, and not imperative; and delay in making, depositing, transmitting, and approving the valuation list beyond the times prescribed does not make a list a nullity which is in fact signed and approved in time to be discussed and adjudicated upon on the hearing of appeals at the quarter sessions; and in such cases the justices cannot under sec. 35, *ante*, order another list to be made. *Reg. v. Ingall*, 2 Q. B. D. 199; 46 L. J. M. C. 113.

(m) *Appeal to assessment sessions.*—Now the quarter sessions for the county of London. See note to sec. 23, *ante*. For regulations as to proceedings on appeals under the Act, see the Scheme of the County Council dated 1st March, 1892, and the standing orders of the quarter sessions dated 31st March, 1890, *ante*, tit. "*Quarter Sessions*."

- (13) The justices may hold the *assessment sessions* (n) at any time after the first of February in the same year, which will enable them to determine all appeals (except where a valuation list or valuation is ordered) before the ensuing thirty-first of March (o):
- (14) Notice of the times at which the *assessment sessions* (n) will be held at each place shall be given by the clerk ten days at least before the first court is held.

32 & 33 Vict.  
c. 67.

*Effect of Valuation List.*

43. The valuation list as approved by the assessment committee, and, if altered on any appeal under this Act to any sessions or a superior court, as so altered, shall come into force at the beginning of the year (commencing on the sixth of April) succeeding that in which it is made, and shall last for five years, subject to any alterations that may be made by any supplemental or provisional list as hereinafter mentioned.

Duration of  
valuation list.

44. Notwithstanding any appeal under this Act which may be pending at the commencement of the year, the valuation list shall come into force unaltered, and every assessment, contribution, rate, and tax in respect of which the valuation list is conclusive shall be made, required, levied, and paid in accordance with such valuation list; and where in consequence of the decision on any appeal under this Act to *assessment sessions* (n) or a superior court an alteration in such valuation list is made which alters the amount of the assessment, contribution, rate, or tax levied thereunder, the difference, if too much has been paid, shall be repaid or allowed, and if too little, shall be deemed to be arrears of the assessment, contribution, rate, or tax (except so far as any penalty is incurred on account of arrears), and shall be paid and recovered accordingly.

Rate to be  
levied not-  
withstanding  
appeal.

45. The valuation list for the time being in force shall be deemed to have been duly made in accordance with this Act and the Acts incorporated herewith, and shall for all or any of the purposes in this section mentioned be conclusive evidence of the gross value and of the rateable value of the several hereditaments included therein, and of the fact that all hereditaments required to be inserted therein have been so inserted; that is to say,

Valuation list  
to be conclusive  
for purposes  
of certain  
rates, taxes,  
and qualifica-  
tions.

- (1) For the purpose of any of the following rates which are made during the year that the list is in force, namely, the county rate, the metropolitan police rate, the church rate, the highway rate, the poor rate, the police, sewers, consolidated, and other rates in the City of London, the sewers, lighting, general, and other rates levied by order of district boards or vestries, the main drainage improvement and other rates, and sums assessed on any part of the Metropolis by the *Metropolitan Board of Works* (p), assessments for contributions under the Metropolitan Poor Act, 1867, and every other rate, assessment, and contribution levied, made, and required in the Metropolis on the basis of value:

- (2) For the purpose of any of the following taxes which become chargeable during the year that the list is in force; namely,

- (a) The tax on houses levied under the House Tax Act and the Acts therein incorporated or referred to:

14 & 15 Vict.  
c. 36, &c.

- (b) Any tax assessed in pursuance of the Income Tax Act, 1842, and any Acts continuing or amending the same, on any lands, tenements, and hereditaments, in all cases where the tax is charged on the gross value, and not on profits:

5 & 6 Vict.  
c. 35, &c.

- (3) For the purpose of determining, so far as it is applicable, the value of any hereditament included therein for the purposes of the Acts relating to the sale of exciseable liquors, to the qualification of a juror, to the qualification of a vestryman, and an auditor of accounts under the *Metropolis Management*

(n) *Assessment sessions*.—Now the quarter sessions. See note to sec. 23, *ante*.

(o) *Before 31st March*.—If the court of quarter sessions has been unable, through press of business, or other unavoidable cause, to hear and determine appeals by the 31st March, they have jurisdiction, where the requisite formalities have been complied with, to hear and determine them after that date. *Reg. v. London J.J. and London Coun. Comm.* (1893), 2 Q. B. 476; 63 L. J. Q. B. 148.

(p) *Met. Bd. Wks.*—Now the London County Council. *Loc. Govt. Act, 1888*, sec. 40 (8), *ante*, vol. i.



- 32 & 33 Vict. *Act, 1855, and to the qualification of a guardian (g) and of a manager under*  
 " 67. *the " Poor Law Amendment Act, 1834," or the " Metropolitan Poor Act,*  
 10 Geo. 4, *1867," at any time at which such value is required to be ascertained:*  
 c. 44. *And in construing the Metropolitan Police Act, 1829, and the Acts amending*  
 15 & 16 Vict. *the same, the last valuation for the time being acted upon in assessing the county*  
 c. 81, &c. *rate shall be deemed to mean the valuation list for the time being in force:*  
 14 & 15 Vict. *And in construing the County Rate Act, 1852 (r), and Acts referring to the*  
 c. 36, &c. *valuation, estimate, basis, or standard for the county rate, the valuation, estimate,*  
 5 & 6 Vict. *basis, or standard shall be deemed to be the rateable value stated in such list:*  
 c. 35, &c. *And in construing the House Tax Act, 1851, and the Acts therein incorporated*  
*or referred to, the full and just yearly rent shall be deemed to be the gross value*  
*stated in such list:*  
*And in construing the Income Tax Act, 1842, and any Acts continuing or*  
*amending that Act, with respect to schedules A. and B. thereof, annual value*  
*shall be deemed to mean the gross value stated in such list.*

*Revision of Valuation List.*

Mode of  
revising  
valuation list.

**46.** Every valuation list shall be revised in manner directed by this Act, and such revision in every period of five years (the first of such periods beginning with the sixth of April one thousand eight hundred and seventy-one) shall be conducted as follows:

- (1) In each of the first four years of such period a supplemental list shall, if necessary, be made out in the same form as the valuation list, and shall show all the alterations which have taken place during the preceding twelve months (s) in any of the matters stated in the valuation list, but shall contain only the hereditaments affected by such alterations. If no alteration has taken place which makes a supplemental list necessary, the overseers shall send a certificate to that effect to the assessment committee in place of such list, which certificate may be in the form contained in the second schedule to this Act:
- (2) In the fifth year of every such period the overseers shall make a new valuation list:
- (3) The same regulations shall be observed and the same proceedings shall be had in the case of a supplemental list and a new valuation list as are directed by this Act and the Acts incorporated herewith in the case of the valuation list made in the first year after the passing of this Act:
- (4) A supplemental list and a new valuation list shall come into force at the beginning of the year succeeding that in which they are respectively made, in the same manner and subject to the same conditions as the valuation list made in the first year after the passing of this Act:
- (5) In each of the last four years of such period the valuation list which was in force on the day before the commencement of each such year, together with and as altered by the supplemental list, if any, which comes into force at the commencement of such year, shall be the valuation list which is in force during that year:
- (6) A new valuation list when it comes into force shall supersede the valuation list which was in force during the fifth year of such period.

Provision for  
valuing a house  
built between  
the times at  
which the  
valuation list  
is made.

**47.** If in the course of any year the value of any hereditament is increased by the addition thereto or erection thereon of any building, or is from any cause increased or reduced in value (t), the following provisions shall have effect:

(g) **Qualification of a vestryman, &c.**—The words in italics are rendered obsolete by the Loc. Govt. Act, 1894, secs. 20, 23 (2), and 31 (1), *ante*, vol. i.

(r) **County Rate Act, 1852.**—*Ante*.

(s) **Alterations during preceding twelve months.**—An alteration during the preceding twelve months is a condition precedent to property being entered in a supplemental list. When such alteration is established, the gross rateable value is to be ascertained by assuming that the value in the existing list was correct at the commencement of the twelve months, and by adding to or taking from such value the addition or diminution, as the case may be, arising from the alteration during the year. The value as thus altered is the value to be entered in the supplemental list. *Reg. v. Poplar Union Assessment Committee*, 13 Q. B. D. 364; *S. C. nom. Reg. v. East and West India Docks Co.*, 53 L. J. M. C. 97.

(t) **From any cause.**—A substantial diminution in the receipts and profits is within the meaning of the section. *Reg. v. Poplar Union Assessmt. Committee, supra*; *Reg. v. St. Mary Islington (Assessmt. Committee)*, 19 Q. B. D. 529; 56 L. J. Q. B. 597.

- (1) The overseers of the parish in which such hereditament is situate may, and on the requisition of the assessment committee or of any ratepayer of the union, or of the surveyor of taxes for the district shall, send to the assessment committee a provisional list containing the gross and rateable value as so increased or reduced of such hereditament (*u*):
- (2) A copy of the requisition shall be sent by the person making it to the clerk of the assessment committee, and if within fourteen days after the requisition has been served on the overseers they make default in sending such provisional list he shall forthwith summon the assessment committee, and the assessment committee shall appoint a person to make such provisional list (*x*) in the same manner as is in this Act provided in the case of the overseers failing to transmit a valuation list:
- (3) On the receipt of the list the clerk of the assessment committee shall serve on the surveyor of taxes for the district a copy of the list, and shall serve on the occupier of any hereditament to which the list relates a copy of so much thereof as relates to that hereditament. Every copy shall be accompanied by a notice specifying a day, being not less than fourteen days after the date of the service of the notice on or before which any objection to the provisional list may be made, and stating the mode in which an objection is to be made. Such copy and notice shall be served in the same way as notices by an assessment committee are served:
- (4) An objection may be made to any such provisional list by the said occupier, and by the surveyor of taxes, or by either of them, by notice thereof in writing being served on the clerk of the assessment committee, on the overseers, on the surveyor of taxes, and on the occupier, or on such of them as the case may require:
- (5) The clerk of the assessment committee, on the receipt of the notice of any objection, shall forthwith summon a meeting of the committee, and give notice of the time and place of such meeting to the overseers, to the surveyor of taxes, and the occupier:
- (6) The committee shall hear and determine on the objection (*y*) in the same manner as if it were an objection to a valuation list, and may make such order as they think just:
- (7) If no objection is made, then on the expiration of the time for making objections, or if an objection is made then as soon as the assessment committee have determined on the objection, the assessment committee shall cause a copy to be made of the provisional list, with any alteration made in it by the committee, and shall return the list and the copy thereof, after being dated and signed by their clerk, to the overseers:
- (8) A provisional list, signed as aforesaid, shall have operation from the date of the service by the clerk of the assessment committee of a copy of the list and notice on the occupier, and shall continue in force until the first list (supplemental or other) which is subsequently made comes into force:
- (9) Upon a provisional list coming into operation the overseers shall make such entries in the rate book for the then current poor rate as will bring the same into conformity with such list, and shall also enter therein the date at which such list is to come into operation, and shall charge the occupier of such hereditament with a proper proportion of such current poor rate, regard being had to the time which has elapsed between the making of such rate and the said date and to the rateable value stated in such provisional list, and such occupier shall be considered as actually rated for such sum from the said date, and be liable to pay the same, and the same may be enforced accordingly:
- (10) A provisional list during the time that it is in force shall be deemed to

32 & 33 Vict.  
c. 67.

(*u*) **Overseers shall send provisional list.**—The overseers are not bound to comply with a requisition to make and send to the assessment committee a provisional list if they are of opinion that no alteration in value has taken place. *Reg. v. St. Mary Magdalene, Bermondsey (Overseers)*, 14 Q. B. D. 351; 54 L. J. M. C. 68.

(*x*) **Shall appoint a person, &c.**—Where a *prima facie* case of diminution is made out, the assessment committee is bound, on default of the overseers, to appoint a person to make a provisional list. *Reg. v. St. Mary Islington (Assessmt. Committee)*, *supra*.

(*y*) **Determine on objection.**—An appeal does not lie to special sessions from the determination of an assessment committee on an objection to a provisional list. *Fulham Union (Assessmt. Committee) v. Wells*, 20 Q. B. D. 749; 57 L. J. M. C. 112.

32 & 33 Vict.  
c. 67.

form part of the valuation list for the time being in force, and shall (so far as is necessary) be substituted for so much of that valuation list as relates to the same hereditament, and every rate and tax in respect of which the valuation list is conclusive, which are respectively made or charged after the provisional list comes into force, and the proportion of the current rate charged as before provided in this section shall be levied accordingly; but if when the next revision of the valuation list takes place the list as approved and altered on appeal contains a smaller value for the hereditament comprised in a provisional list than the value stated in such provisional list, the amount of rate or tax which has been overpaid in consequence of the larger value having been stated shall be repaid or allowed:

- (11) Nothing in this section shall affect the value on which any rate is made or sum is assessed or contribution required which is made, assessed, or required on the totals of the gross or rateable value of parishes or unions.

#### *Expenses.*

Costs of  
appeal, &c.

48. The costs of an appeal awarded against or incurred by any assessment committee or overseers shall be deemed to be expenses incurred under this Act and the Acts incorporated herewith, and shall be raised and paid accordingly.

Any costs or expenses awarded against or incurred by any surveyor of taxes shall be defrayed in the same manner as expenses are directed to be defrayed by the Acts relating to the taxes in respect of which the valuation list is made conclusive.

Inland  
Revenue may  
make allow-  
ances for  
expenses of  
Act.  
Expenses.

49. The Commissioners of Inland Revenue may make such allowances as they think fit for remunerating any person employed by them in the execution of this Act, and for the discharge of any costs or expenses incurred by him.

50. The expenses of the assessment sessions and such remuneration as the *Poor Law Board* (z) may from time to time allow to the clerk of the managers of the metropolitan asylum district, the clerk of the assessment sessions, and persons appointed to assist the assessment sessions as provided by this Act, and such costs and expenses incurred by such clerks and persons under this Act as the *Poor Law Board* (z) may allow, after such audit as the *Poor Law Board* (z) may direct, shall be paid by the receiver of the metropolitan common poor fund (a) out of any moneys for the time being in his hands, and shall be paid at such times and in such manner and upon such precept of the *Poor Law Board* as the *Poor Law Board* may from time to time prescribe, and the *Poor Law Board* (z) may require contributions for the purpose of raising such remuneration, expenses, and costs.

#### *Rules for Formation of Valuation List.*

Form and  
contents of  
valuation list.

51. The valuation list shall be made out in the form given in the second schedule to this Act.

5 & 6 Vict.  
c. 35.

The overseers shall not include in such valuation list any hereditaments (except tithes or payment in lieu of tithes) which are charged according to rule two in section sixty of the Income Tax Act, 1842, but shall include tithes and payments in lieu of tithes and every hereditament in their parish, and shall enter every hereditament in the valuation list in accordance with the classes mentioned in the third schedule to this Act, so that the deductions to be made in ascertaining the rateable value may be calculated in accordance with that schedule.

Deductions for  
rateable value.

52. The percentage or rate of deductions to be made from the gross value in calculating the rateable value for the purposes of this Act shall not exceed the amounts in the third schedule to this Act, so far as the same are applicable.

Amount of  
gross value  
specified by  
the surveyor  
of taxes to  
be inserted,  
unless dis-  
proved.

53. When a surveyor of taxes gives notice of objection or of appeal, the amount specified in the notice as being in his judgment the gross value of any hereditament referred to in the notice shall be inserted in the valuation list by the assessment committee, special sessions, or assessment sessions, unless it is proved to the satisfaction of the assessment committee, special sessions, or assessment sessions, that such amount ought not to be so inserted.

(z) **Poor Law Board.**—Now the Loc. Govt. Bd. See note to sec. 5 (4), *ante*.

(a) **Metropolitan common poor fund.**—As to the constitution and nature of this fund, see note to sec. 94 of the Loc. Govt. Act, 1888, *ante*, vol. i.



54. Nothing contained in this Act or the Acts incorporated herewith shall affect any exemption or deduction from or allowance out of any rate or tax whatever, or any privilege of or provision for being rated or taxed on any exceptional principle of valuation (*b*).

32 & 33 Vict.  
c. 67.

Saving of exemptions and exceptional principles of valuation. Occupier to make returns.

*Returns.*

55. In the first year after the passing of this Act, and in every subsequent year in which a new valuation list is made, or in the month of March preceding any such year, every person who is liable (*c*) to be charged with any rate or tax in respect of which the valuation list is made conclusive shall, when required, make to the overseers of his parish such statement or return as a person chargeable under the Income Tax Act, 1842, and the Acts amending the same is bound to make.

5 & 6 Vict.  
c. 35.

56. For the purpose of securing the proper making of such returns, the surveyor of taxes shall in the month of February preceding send to the overseers of each parish in his district a sufficient number of printed forms and notices, and the overseers, within a month after the receipt thereof, shall serve a notice and form on every person in their parish required by this Act to make a return; and every person required by this Act to make a return shall make it within twenty-one days after the service of a notice and form on him.

Surveyor of taxes to supply notices and forms for returns to overseers, who are to serve them.  
5 & 6 Vict.  
c. 35.

The forms and notices shall be such as are prescribed by the Income Tax Act, 1842, or the Acts amending the same, or as the Treasury may from time to time prescribe, and any such form duly filled up and signed shall be deemed to be a sufficient return.

The return shall be delivered to the overseers of each parish, and together with the valuation list shall be sent by them to the surveyor of taxes, and by the surveyor of taxes to the assessment committee.

57. An assessment committee may, by order, require any person who is the owner or occupier or reputed owner or occupier of any hereditament in their union to send them a return in writing of all or any of the following things; viz., of the rent receivable or payable by him (as the case may be) for such hereditament, and of the person entitled to any tithe rentcharge charged on such hereditament, and of the amount of the same, and of the several persons by whom any tithe rentcharge is paid to him, and of the amounts paid by each such person, and of any other particulars respecting such hereditament as are required for the due execution of this Act and the Acts incorporated herewith. And every such owner or occupier shall obey such order within fourteen days after the service thereof on him.

Assessment committee may require returns from owner and occupier.

58. If any person wilfully refuses or neglects to make any return lawfully required under this Act within the times respectively limited by this Act in that behalf, he shall be liable, on summary conviction, to a penalty not exceeding five pounds.

Penalty for no or false returns.

If any person wilfully makes or causes to be made a false return, he shall be liable, on summary conviction, to a penalty not exceeding ten pounds.

*Miscellaneous.*

59. With respect to any parish which is not included in any union of parishes, and in which there is no board of guardians (*d*), the following provisions shall have effect:

Provision for cases where no guardians and where no overseers.

- (1) The assessment committee of the adjoining union shall act as the assessment committee of that parish, and where there is more than one such adjoining union the Poor Law Board shall determine the assessment committee which is to act for such parish:

(*b*) **Exceptional principle of valuation.**—The gross and rateable values, as defined by sec. 4, *ante*, of each hereditament must be inserted, without reference to any privilege of being assessed on an exceptional principle of valuation. *Reg. v. Foundling Hospital (Governors of)*, L. R. 7 Q. B. 83; 41 L. J. M. C. 41.

(*c*) **Every person liable.**—An owner or lessee who is liable to be assessed, or who does in fact pay the rates in the place of the occupier or tenant, is deemed to be the person who is to make the statement or return referred to in this section. Valuation (Metrop.) Act, 1884, sec. 2, *post*.

(*d*) **Parish not in union, &c.**—See note to sec. 30 of the County Rates Act, 1852, *ante*.

32 & 33 Vict.  
c. 67.

- (2) Every such parish shall, for the purposes of this Act and the Acts incorporated herewith, but not for any other purpose, be deemed to be within the union of the assessment committee which acts for it :
- (3) The masters of the bench, treasurer, governors, or other body of persons in such parish, may, at the time appointed for the election of an assessment committee, appoint a person to be a member of such assessment committee in addition to the number elected under this Act and the Acts incorporated herewith :
- (4) Where there are no overseers the assessment committee shall appoint some person to perform the duties of the overseers under this Act and the Acts incorporated herewith, and may award him such remuneration as they think fit ; and the person so appointed shall perform those duties, and shall, for that purpose, have all the powers of overseers :
- (5) A proportionate share of the expenses of the assessment committee under this Act and the Acts incorporated herewith, and any remuneration paid to or expenses incurred by the person appointed by them under this or any other section to make a valuation list, shall be charged on such parish, and the sums so charged shall be paid by the masters of the bench, treasurer, governor, or other body of persons ; and sections sixty-six, sixty-seven, and sixty-eight of the Metropolitan Poor Act, 1867, shall apply to such sums in the same manner as if the assessment committee and their clerk were the Poor Law Board and the receiver mentioned in those sections.

Provision  
where vestry  
are the over-  
seers.

Guardians may  
appoint a paid  
valuer to assist  
the assessment  
committee.

Assessment  
committee and  
overseers may  
give security  
for costs of  
valuation.

Use of public  
room for  
appeals, &c.

Evidence of  
valuation list,  
&c.

Service of  
notices, &c.  
by post, &c.

**60.** Where the vestry or the guardians of any parish perform the duties of overseers with respect to a valuation list under this Act the list shall be signed by the vestry clerk or the clerk of the guardians.

**61.** The guardians may, upon the application of the assessment committee, after notice sent in the manner required by the principal Act, appoint some competent person to assist the committee in the valuation of the hereditaments in the union for such period as they see fit, at a salary or other settled remuneration, to be paid out of the common fund.

**62.** Every assessment committee, with the consent of the guardians, and every overseer, with the consent of the vestry of his parish, may, for the purposes of any application for a valuation on any appeal, give security for paying the costs of such valuation. An assessment committee may give such security and may appear on any appeal by their clerk (e), and shall indemnify the said clerk against all moneys, losses, and costs paid or incurred by him in consequence of such security or appearance.

**63.** Any room maintained out of the proceeds of any rate levied wholly or partly in the Metropolis may (with the consent of the person or body corporate having the control of it) be used for hearing appeals, and for other purposes of this Act.

**64.** A valuation list may be proved by the production of a duplicate or copy of such list purporting to be certified to be a duplicate or a true copy by the clerk of the assessment committee that approved it, and such certificate shall state that the alterations (if any) made in the list in consequence of the decision on any appeal under this Act have been correctly made in the duplicate or copy so produced, and the clerk on application shall furnish a copy to any overseers on payment of a sum not exceeding the rate of three shillings for every hundred entries numbered separately. A provisional list may be proved by the production of a duplicate or copy thereof purporting to be certified to be a true copy by the clerk of the committee who signed it.

**65.** All orders and notices under this Act and the Acts incorporated herewith shall be in writing or print, or partly in writing and partly in print, and if made

(e) **Appearance by clerk.**—Rule 10 of the order regulating proceedings on appeals to quarter sessions under this Act, *ante*, tit. "Quarter Sessions," requires that "consents shall be signified by counsel in open court." *Held*, that an assessment committee is not entitled to be heard by their clerk to consent to alterations in the valuation list agreed upon, but must be represented by counsel. *Reg. v. London J.J., Ex parte Dewey* (1896), 1 Q. B. 659 ; 65 L. J. M. C. 120. "The object of this section appears to me to be that, instead of its being necessary for the individual members of the committee to appear in court, the clerk may appear for all of them." Per Lord Esher, M.R., *ib.* at p. 664.

or given by an assessment committee shall be sufficiently authenticated if signed by their clerk; and all orders, notices, and documents required by the same Acts to be served on or sent to any person or body of persons corporate or unincorporate may be either delivered to such person or the clerk of such body, or left at the usual place of abode of such person or clerk, or at the office of such clerk or body, or (if such abode or office cannot on reasonable inquiry be discovered) at the premises to which the order, notice, or document relates.

They may also be served and sent by post, by a prepaid letter, addressed to such person, or to the office of such body or to their clerk, and, if sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and prepaid and put into the post (*f*).

66. Any notice required by this Act to be published by the overseers shall, on the Sunday next following the receipt of such notice, or the document to which the notice refers, and the two following Sundays, be published by them in the manner in which notice of a rate allowed by justices is required to be published (*g*).

67. Where any documents are required by this Act to be deposited in the same place in a parish in which rate books are kept, every ratepayer shall be at liberty to inspect and take copies of or extracts from such documents at any reasonable time, without fee or charge (*h*).

68. The duplicate of the valuation list, approved by the assessment committee, and sent to the overseers, as directed by this Act, the notices of alterations made on any appeal under this Act, and any provisional list, shall for all purposes be deemed to be part of the rate books of the parish, and shall be produced by the overseers before the justices upon any application for allowance of rates, and on any appeal under this or any other Act, and on any other occasion if so required, on which they are bound to produce such rate books, and any overseer who fails to produce such list in accordance with the provisions of this section shall be liable on summary conviction to a penalty not exceeding five pounds.

The duplicate of the valuation list returned to the assessment committee by the clerk of the *managers of the metropolitan asylum district* (*i*), and other documents in the possession of the assessment committee in pursuance of this Act, shall be kept at the board room or other convenient place from time to time appointed by the guardians of the same union, but shall be deemed to be in the possession of the assessment committee, and shall be produced by their clerk to the district auditor whenever required by him.

69. Any ratepayer, overseer, clerk of an assessment committee, or surveyor of taxes in the Metropolis may, at all reasonable times, without payment, inspect and take copies of and extracts from all valuation lists and documents which in pursuance of this Act are under the control of the clerk of the *managers of the metropolitan asylum district* (*i*), or of the clerk of the assessment sessions.

(*f*) **Prepaid post.**—Under a somewhat similar provision of the Public Health Act, 1875 (38 & 39 Vict. c. 35), sec. 267, an affidavit stating that a notice was addressed to a local authority, and put into the post by the deponent, but not stating that the letter was prepaid, was held to be insufficient as evidence of service. *Walthamstow Urb. Dist. Comm. v. Greenwood*, 66 L. J. Ch. 31; 61 J. P. 23.

(*g*) **Publication of notices.**—The Poor Rate Act, 1743 (17 Geo. 2, c. 3), sec. 1, as amended by the Vestries Act, 1837 (7 Will. 4 & 1 Vict. c. 45), requires the churchwardens, overseers, or other persons authorised to take care of the poor to affix a notice in writing or print on or near to the doors of all the churches and chapels within their parish or place of every rate for the relief of the poor allowed by the justices the next Sunday after the same shall have been allowed. It is not necessary to affix the notice on all the doors of each church or chapel. It is sufficient if a copy is affixed before divine service on or near the principal door. *Ormerod v. Chadwick*, 16 M. & W. 367; 16 L. J. M. C. 143. The notice need not be signed, and therefore a notice signed only by one overseer and the assistant overseer is good. *Burnley v. Methley (Overseers)*, 1 E. & E. 789; 28 L. J. M. C. 152.

(*h*) **Inspection, &c., of documents.**—See also sec. 17 of the Union Assessment Committee Act, 1862, and note thereto, *ante*.

(*i*) **Clerk of managers of metropolitan asylum district.**—Now the clerk of the county council. Loc. Govt. Act, 1888, sec. 44, *ante*, vol. i.

32 & 33 Vict.  
c. 67.

Publication of  
notices by  
overseers.

Inspection, &c.  
of documents  
deposited with  
rate books.

Valuation lists  
to be equivalent to rate  
books of parish.

Ratepayer, &c.  
may inspect  
documents,  
&c. in hands  
of clerk of  
county council  
or assessment  
committee.



32 & 33 Vict.  
c. 67.

Any surveyor of taxes and any guardian and any overseer in a union, without payment, and any ratepayer in a union on payment of a fee not exceeding one shilling (to be carried to the common fund), may at any reasonable time inspect and take copies of and extracts from any valuation lists, notices of objection, returns, and other documents in the possession or under the control of the assessment committee of that union.

Any clerk of an assessment committee in the Metropolis may inspect and take extracts from any valuation lists in the possession or under the control of the assessment committee of any other union in the Metropolis.

Any person who hinders a ratepayer, overseer, clerk of an assessment committee, or surveyor of taxes from so inspecting or taking copies of or extracts from any valuation list or document, or demands where not authorised by this Act a fee for allowing him so to do, shall be liable on summary conviction to a penalty not exceeding five pounds for each offence.

70. [*Rep. by Valuation (Metrop.) Amend. Act, 1884, sec. 2, post.*]

Amendment  
of error in  
rate by two  
justices.

71. Any person who feels aggrieved by reason of any clerical or arithmetical error in a rate in the Metropolis may apply to two justices of the peace or a magistrate sitting at any police court in the metropolitan police district, who, after the applicant has given such notice to the overseers who made the rate, and such persons as such justices or magistrates think just, may hear the case in like manner as in the case of summary proceedings, and amend the rate so far as respects such error.

Omissions from  
the rate.

72. Whenever the name of any person liable to be rated at the time the rate is made is omitted from any rate in the Metropolis, or if any person is described in any such rate by a wrong name, the overseers may, after giving to such person seven clear days' notice of their intention, apply to any two justices or any police magistrate as aforesaid, who may hear the case in like manner as in the case of summary proceedings, and insert the name so omitted, or correct the name so wrongly entered, and every such insertion and correction shall operate as if it had been part of the original rate: Provided that any person whose name is so inserted or corrected in any such rate may appeal against the same at the general quarter sessions of the peace which is holden next after such insertion or correction, in like manner as he might have appealed against the rate.

Form of  
rate and  
declaration.

73. Every poor rate made in the Metropolis after the fifth of April one thousand eight hundred and seventy-one shall contain the particulars specified in the fourth schedule to this Act, together with such other particulars as the *Poor Law Board* (k) may from time to time by order direct, and the overseer shall sign the form of declaration which is given in that schedule before the rate is allowed by the justices. And the justices shall not allow any rate at the foot of which the said declaration has not been added and signed.

Any overseer who wilfully omits to make the said declaration or makes the same falsely shall be liable on summary conviction to a penalty not exceeding five pounds.

Amendment  
of 25 & 26  
Vict. c. 103,  
s. 11.

74. The entry of the proceedings of the assessment committee at any meeting, and of the names of the members who attend that meeting, may be signed by the chairman of the next meeting of the committee, and every entry and minute purporting to be so signed shall be received in evidence in the same manner as if such entry or minute had been signed by the chairman of the meeting at which the proceedings took place, and the members were present.

Saving of  
powers to  
value property  
not included  
in a valuation  
list.

75. Nothing in this Act shall in any way alter or affect the mode of valuing or taxing any hereditament which is not included in any valuation list, or which is chargeable according to the profits, and not according to the gross value, or the mode of charging the occupiers of land subject to a tithe rentcharge in respect of such tithe rentcharge.

Separate  
assessment of  
houses for  
purposes of  
house duty,  
income tax, and  
Licensing Acts.

76. Where for the purposes of the Acts relating to the duty on inhabited houses, or to the duties charged under schedule B. of the Income Tax Act, or to the sale of excisable liquors, it is necessary to make a separate valuation of any hereditament by reason of its not being separately valued in any valuation list, the value of such hereditament shall be ascertained in the same manner as if this Act had not passed.

(k) *Poor Law Board*.—Now the Loc. Govt. Bd. See note to sec. 5 (4), *ante*.

### Repeal of Acts.

32 & 33 Vict.  
c. 67.

77. [Repeal of enactments in fifth schedule.] So much of any Acts, whether public or local and personal, as authorises any valuation of hereditaments to be made for the purposes of any rate or tax in respect of which the valuation list is by this Act made conclusive, are hereby repealed, where they relate only to the Metropolis absolutely, and in other cases so far as they relate to the Metropolis: . . .

Repeal of  
Acts herein  
described.

FIRST SCHEDULE (1).

\* \* \* \* \*

SECOND SCHEDULE.

Secs. 14, 51.

PART I. (*m*).

VALUATION LIST for [the parish or place for which the list is made] in the  
Metropolitan Union of [or not being in Union] in the  
County of

|      |                                                               |
|------|---------------------------------------------------------------|
|      | Number.                                                       |
|      | Name of occupier.                                             |
|      | Name of owner.                                                |
|      | Description of property.                                      |
|      | No. of class.                                                 |
|      | Name or situation of property.                                |
|      | Extent.                                                       |
|      | Gross value as estimated by overseers.                        |
|      | Gross value as estimated by surveyor of taxes.                |
|      | Rate of deduction per cent.                                   |
| (n). | Rateable value.                                               |
|      | Gross value as finally determined by Assessment Committee.    |
|      | Rateable value as finally determined by Assessment Committee. |

Signed this

day of

A.B. } Overseers of the poor of  
C.D. } the parish aforesaid.

We do hereby approve the above valuation list, and certify that in determining the gross and rateable value of the above hereditaments the provisions of the Valuation (Metropolis) Act, 1869, have been duly complied with.

Signed this

day of

*A.B.* } Members of the Assess-  
*C.D.* } ment Committee of  
*E.F.* } the Union.

*Note.*—The two last of the above columns (for gross and rateable value as determined by assessment committee) must be filled up, and the totals of those columns must be added up after the objections to the alterations have (if any) been heard, and before the list is finally approved.

## PART II.

*Form of Certificate where no supplemental list is sent.*

We, the overseers of the parish of \_\_\_\_\_, do hereby certify that no alteration has taken place in the matters stated in the valuation list of this parish which renders a supplemental list necessary.

A.B. } Overseers of the parish  
C.D. } of

(2) **First schedule.**—Omitted for reasons given in note to sec. 4, *ante*.

(m) **Particulars in valuation list.**—In addition to the particulars required by the above form, the totals of the value of property exempt from sewers rate must be inserted. Met. Man. Act, 1875, sec. 2, *post*. The value of agricultural land, and the total rateable value of the agricultural land in each parish, must also be separately stated. Agricultural Rates Act, 1896, sec. 5, *post*.

(n) **Rateable value.**—In parishes in which there is any agricultural land as defined

32 & 33 Vict.  
c. 67.

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Secs. 51, 52.

THIRD SCHEDULE.

Showing the several classes into which the hereditaments inserted in a valuation list under this Act are to be divided.

|                                                                                                                                                                       | Maximum rate<br>of deductions.                                                                  | Per cent.<br>or proportion. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|-----------------------------|
| Class 1. Houses and buildings, or either of them, without land other than gardens where the gross value is under 20/.                                                 | 25 or $\frac{1}{4}$ th.                                                                         |                             |
| „ 2. Houses and buildings without land other than gardens and pleasure grounds valued therewith for the purpose of inhabited house duty where the gross value is 20/. | 20 or $\frac{1}{5}$ th.                                                                         |                             |
| „ 3. Houses and buildings without land other than gardens and pleasure grounds valued therewith for the purpose of inhabited house duty where the gross value is 40/. | 16 $\frac{2}{3}$ or $\frac{1}{6}$ th.                                                           |                             |
| „ 4. Buildings without land which are not liable to inhabited house duty and are of a gross value of 20/.                                                             | 20 or $\frac{1}{5}$ th.                                                                         |                             |
| „ 5. Buildings without land which are not liable to inhabited house duty and are of a gross value of 40/.                                                             | 16 $\frac{2}{3}$ or $\frac{1}{6}$ th.                                                           |                             |
| „ 6. Land with buildings not houses                                                                                                                                   | 10 or $\frac{1}{10}$ th.                                                                        |                             |
| „ 7. Land without buildings                                                                                                                                           | 5 or $\frac{1}{20}$ th.                                                                         |                             |
| „ 8. Mills and manufactories                                                                                                                                          | 33 $\frac{1}{3}$ or 3rd.                                                                        |                             |
| „ 9. Tithes, tithe commutation rentcharge, and other payments in lieu of tithe                                                                                        | To be determined in each case according to the circumstances and the general principles of law. |                             |
| „ 10. Railways, canals, docks, tolls, waterworks, and gasworks                                                                                                        |                                                                                                 |                             |
| „ 11. Rateable hereditaments not included in any of the foregoing classes                                                                                             |                                                                                                 |                             |

The maximum rate of deductions prescribed in this schedule shall not apply to houses or buildings let out in separate tenements, but the rate of deductions in such cases shall be determined as in classes 9, 10, and 11.

## Section 73.

FOURTH SCHEDULE.

FORM OF RATE.

RATE for the RELIEF of the POOR of the Parish of \_\_\_\_\_ in the \_\_\_\_\_  
Union, and for other purposes chargeable thereon, according to law made this \_\_\_\_\_  
day of \_\_\_\_\_ in the year of our Lord, 18\_\_\_\_, after the  
rate of \_\_\_\_\_ in the pound (o), which is estimated to meet all the  
expenses for the above purposes which will be incurred before the \_\_\_\_\_  
of \_\_\_\_\_ next.

[illegible]

by the Agricultural Rates Act, 1896, sec. 9, *post*, the column intituled "Rateable value" must be omitted, and two columns added after the other columns, to be intituled respectively "Rateable value of agricultural land" and "Rateable value of buildings and other hereditaments not being agricultural land." Agricultural Rates Order, 1896.

(o) **Form of rate.**—In parishes in which there is any agricultural land as defined by



DECLARATION TO BE ADDED TO THE RATE.

32 & 33 Vict.  
c. 67.

WE, the undersigned, do hereby declare that one of us, or some person on our behalf, has examined and compared the several particulars in the respective columns of the above rate with the valuation list made under the authority of the Valuation (Metropolis) Act, 1869, and now in force in this parish (or township), and the several hereditaments are, to the best of our belief, rated according to the value appearing in such valuation list, and do declare that the total of the above rate amounts to — pounds shillings and pence.

} Churchwardens.  
}  
} Overseers.

FIFTH SCHEDULE.

Section 77.

[*Enactments repealed. Rep. by 46 & 47 Vict. c. 39 (Statute Law Revision), except as to the repeal of so much of any Act as applies the provisions thereby repealed to 25 & 26 Vict. c. 102.*]

|                       |                                           |                                         |   |   |   |          |
|-----------------------|-------------------------------------------|-----------------------------------------|---|---|---|----------|
| *                     | *                                         | *                                       | * | * | * | *        |
| 25 & 26 Vict. c. 102. | An Act to amend the Metropolis Local Man- | agement Acts (The Metropolis Management |   |   |   |          |
|                       | Amendment Act, 1862).....                 |                                         |   |   |   | in part, |
|                       | So much of sections six, seven, and       |                                         |   |   |   | namely—  |
|                       | thirteen as authorises or relates to the  |                                         |   |   |   |          |
|                       | ascertaining the value of any heredita-   |                                         |   |   |   |          |
|                       | ment with respect to the value of which   |                                         |   |   |   |          |
|                       | the valuation list is conclusive, and so  |                                         |   |   |   |          |
|                       | much of any Act as applies the pro-       |                                         |   |   |   |          |
|                       | visions hereby repealed.                  |                                         |   |   |   |          |
| *                     | *                                         | *                                       | * | * | * | *        |

VALUATION (METROPOLIS) AMENDMENT ACT, 1884.

**47 Vict. c. 5.** An Act to amend the Valuation (Metropolis) Act, 1869, by giving greater facilities for appeal to owners and lessees of houses paying rates and taxes in the place of the occupiers.  
[28th March, 1884]

[*Preamble recites Valuation (Metropolis) Act, 1869.*]

**1.** This Act may be cited as the Valuation (Metropolis) Amendment Act, 1884, and shall be read and construed as one Act with the Valuation (Metropolis) Act, 1869 (hereinafter called the principal Act). Short title and construction.

**2.** Section seventy of the principal Act is hereby repealed, and in lieu thereof it is enacted as follows: Where the owner or lessee of any hereditament is liable to be assessed for any rate or tax in the place of the occupier or tenant, or does in fact pay any such rate or tax in his place under any contract or arrangement with him, such owner or lessee shall for the purposes of this Act and the Acts incorporated therewith be deemed to be the occupier of such hereditament, and the person referred to as the ratepayer in sections nineteen and thirty-two of Enabling owners and lessees to appeal.

the Agricultural Rates Act, 1896, sec. 9, *mut.*, after the words "in the pound" insert "on buildings and other hereditaments not being agricultural land, and at one half of the said rate on agricultural land"; and for the column intituled "Rate in the pound" substitute two columns to be intituled "Rateable value of buildings and hereditaments not being agricultural land" and "Rate at *d.* in the £ on agricultural land, and at *d.* in the £ on other hereditaments," respectively. Agricultural Rates Order, 1896.

47 Vict. c. 5. the principal Act, and the person who is to make to the overseers of his parish the statement or return referred to in the fifty-fifth section of the principal Act.

Provided, that any form of return, order, notice, or document required to be given to or served on the occupier under the principal Act shall, except where the owner or lessee is liable to be assessed to or to pay any rate or tax in the place of the occupier, be deemed to be sufficiently given or served, notwithstanding this Act, if addressed to such occupier and left on the premises to which the return, order, notice, or document relates.

(One notice or objection may include one or more separately assessed hereditaments.

3. Where any occupier or ratepayer, or any owner or lessee deemed to be an occupier or ratepayer within the meaning of section two of this Act, shall object to the valuation list in respect of any hereditaments, whether consisting of a house or houses subdivided into tenements separately assessed as hereditaments or of separate houses or tenements not so subdivided, it shall be lawful for him to include in any one notice made in pursuance of section thirty-three of the principal Act or otherwise, or in any one objection, appeal, or other proceeding under the principal Act and the Acts incorporated therewith, the whole or any one or more of the hereditaments separately assessed and comprised in one valuation list of which he is or is deemed to be the occupier or ratepayer.

### THE METROPOLIS MANAGEMENT ACT, 1875 (p).

38 & 39 Vict. c. 33. An Act to amend the Metropolis Management Act. [29th June, 1875]

[*Preamble recited secs. 163 and 164 of the Met. Man. Act, 1855, ante, and the Valuation (Metropolis) Act, 1869. Rep. by 56 & 57 Vict. c. 54. Statute Law Revision.*]

County council to make abatement on assessment of parts of Metropolis containing property exempt from sewers rate. Totals of value of property so exempt to be inserted in valuation lists. Totals to be printed.

1. The Metropolitan Board of Works (q), in every assessment made by them upon such parts of the Metropolis as contain property wholly or partially exempt from sewers rate, and in the precepts issued for obtaining payment of the sums so assessed, shall make an allowance or abatement equal to the reduction or exemption which, under the one hundred and sixty-third and one hundred and sixty-fourth sections of the Metropolis Management Act, 1855, is required to be made in levying any rate for the purpose of meeting such precepts (r).

2. The overseers and assessment committees acting under the Valuation (Metropolis) Act, 1869, shall cause the totals of the gross and rateable value of the property so wholly or partially exempt from sewers rate, and the extent of such exemption, to be ascertained and inserted in every valuation list which shall be made by them.

3. The said lists shall be sent by the assessment committees before the first day of November in each year to the clerk of the managers of the metropolitan asylum district (s), who shall print and send the said totals and extent of exemptions, with the other totals of gross and rateable value required to be printed and sent by the seventeenth section of the said Valuation (Metropolis) Act, 1869.

Appeal in case of unfairness, &c.

4. Any unfairness or incorrectness in the said totals and extent of exemptions may be appealed against in the manner provided for appealing against totals of gross or rateable value under section thirty-two of the Valuation (Metropolis) Act, 1869.

(p) **Short title.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(q) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*.

(r) **Met. Man. Act, 1855.**—*Ante*, vol. i.

(s) **Clerk of metropolitan asylum district.**—The lists are now sent to the clerk of the county council instead of the clerk of the managers of the metropolitan asylum district. Loc. Govt. Act, 1888, sec. 44, *ante*.

AGRICULTURAL RATES ACT, 1896.

59 & 60 Vict. c. 16. An Act to amend the Law with respect to the Rating of Occupiers of Agricultural Land in England, and for other purposes connected therewith. [20th July, 1896]

1.—(1) During the continuance of this Act, that is to say, the period of five years after the thirty-first day of March next after the passing of this Act the occupier of agricultural land (*t*) in England shall be liable in the case of every rate to which this Act applies, to pay one half only of the rate in the pound payable in respect of buildings and other hereditaments.

Exemption of agricultural land from half of rates to which this Act applies.

- (2) This Act shall apply to every rate as defined by this Act, except a rate—  
 (a) which the occupier of agricultural land is liable, as compared with the occupier of buildings or other hereditaments, to be assessed to or to pay in the proportion of one half or less than one half, or  
 (b) which is assessed under any commission of sewers or in respect of any drainage, wall, embankment, or other work for the benefit of the land.

2.—(1) In respect of the deficiency which will arise from the provisions of this Act in the produce of rates made by the spending authorities in England, as hereinafter defined, there shall during the continuance of this Act—

Payment out of local taxation account in respect of deficiency arising from exemption.

- (a) be paid to the local taxation account (*u*) an annual sum (in this Act referred to as the annual grant) of such amount as is certified under the provisions hereinafter contained; and  
 (b) be issued from the local taxation account by half-yearly payments out of the annual grant to each such spending authority a share of that grant of such amount as is certified under the provisions hereinafter contained.  
 (2) The Commissioners of Inland Revenue, in such manner, by such payments, and under such regulations, as the Treasury direct, shall pay to the local taxation account, out of the proceeds of the estate duty derived in England from personal property, the annual sum required by this section to be paid to that account.  
 (3) The first of those payments shall be made during the six months ending on the thirty-first day of March next after the passing of this Act, so as to make up a half-yearly payment to meet the issues to spending authorities on account of the six ensuing months.

3.—(1) Where any spending authority (*x*) require in any half-year or other period to raise from two or more parishes a sum by a rate to which this Act applies, they shall, in determining the net amount to be so raised, deduct the sum issuable to them in respect of the said rate on account of their share of the annual grant for the said half-year or other period, and the net amount after that deduction shall, where it would otherwise be raised in proportion to the rateable value, be raised in proportion to the assessable value of those parishes.

Contributions from more than one parish.

(2) For the purposes of this section the assessable value of a parish shall be the rateable value thereof reduced by an amount equal to one half of the rateable value of the agricultural land in the parish.

4.—(1) The Local Government Board shall, as soon as may be after the passing of this Act, certify the amount—

Certifying of annual sums payable in respect of deficiency.

- (a) of the annual grant to be paid to the local taxation account; and  
 (b) of the share of such grant to be paid annually to each spending authority (*x*), under this Act, and for that purpose shall determine in the prescribed manner the amount which for the purposes of this Act is to be taken as having been raised during the last year before the passing of this Act by any rate to which this Act applies for the expenditure of each spending authority.

(2) Such proportion of the whole amount so taken to be raised in respect of any hereditaments or parishes as the Local Government Board estimate to be the proportion of the total rateable value of those hereditaments or parishes which represents the value of agricultural land, shall be taken for the purposes of this Act as the amount raised during the said year, by the said authority, be

(*t*) **Agricultural land.**—See the definition of this expression in sec. 9, *post*.

(*u*) **Local taxation account.**—See the Loc. Govt. Act, 1888, sec. 26 (1), *ante*, vol. i.

(*x*) **Spending authority** is defined by sec. 9, *post*.



59 & 60 Vict.  
c. 16.

the said rate, in respect of agricultural land, and one half of that amount shall be taken as the deficiency which will arise from the provisions of this Act in the produce of the said rate.

(3) A sum equal to the total amount of the deficiencies thus estimated for all the spending authorities in England shall be the amount of the annual grant, and a sum equal to the deficiency thus estimated in the case of each spending authority shall be the share of that spending authority in the annual grant, and the Local Government Board shall certify the same accordingly.

(4) The Local Government Board, in acting under this section, shall obtain such information and make such inquiries, and in such manner as they think fit.

(5) The Local Government Board may in case of error amend, or for the purpose of meeting any alteration in an area or authority to which a certificate relates may vary, a certificate under this section, and any such amendment or variation shall have effect from the date of the original certificate, or any later date fixed by the Board, but, save as aforesaid, a certificate shall be final and binding on all persons.

(6) The Local Government Board may give provisional certificates, if they think necessary for the purpose of enabling the first payments to and out of the local taxation account under this Act to be made, before they have sufficient information to enable them to give final certificates.

Separate  
statement  
valuation lists,  
&c. value of  
agricultural  
land.

5. In every valuation list and in the basis or standard for any county rate, and in any valuation made by the council of a borough or any other council for the purpose of raising the borough or other rate—

(a) where separate hereditaments are specified therein, the value of agricultural land shall be stated separately from that of any building or other hereditament; and

(b) in every case the total rateable value of the agricultural land in each parish shall be stated separately from the total rateable value of the buildings or other hereditaments in such parish; and whenever a copy of the total of the rateable value of any parish is required to be sent to any person, such copy shall state both the above-mentioned totals; and

(c) where any hereditament consists partly of agricultural land and partly of buildings, the gross estimated rental of the buildings, when valued separately, in pursuance of this Act, from the agricultural land shall, while the buildings are used only for the cultivation of the said land, be calculated not on structural cost, but on the rent at which they would be expected to let to a tenant from year to year, if they could only be so used; and the total gross estimated rental of the hereditament shall not be increased by the said separate valuation.

Procedure for  
ascertaining  
deficiency and  
for separation  
of value of  
agricultural  
land from  
buildings and  
other heredita-  
ments.

6.—(1) For the purposes of this Act returns shall be made to the Local Government Board in accordance with the prescribed regulations—

(a) by every spending authority in relation to the sums actually received by them or their predecessors during the year next before the passing of this Act from any rate to which this Act applies; and

(b) by every assessment committee or council whose duty it is to revise or make a valuation list, basis, standard, or other valuation for any parish, in relation to the gross estimated rental and rateable value of that parish, and the proportion thereof which represents agricultural land; and

(c) by any such authority, committee, or council in relation to any other prescribed information.

(2) For the purpose of the returns, statements showing the gross estimated rental and rateable value of the agricultural land in a parish, and, in the case of any hereditament separately valued which consists in part of agricultural land and in part of buildings or other hereditaments, of each such part, shall be made by the overseers of every parish, and corrected by the assessment committee, and sent to the surveyor of taxes, and be subject to objection or appeal by the said surveyor and overseers before the assessment committee, and the justices in special sessions, and the court of quarter sessions, and subject to the right of any aggrieved ratepayer to be heard upon the said appeal, in such form, within such times, and generally in such manner, and subject to such provisions, as may be prescribed. These provisions shall conform as nearly as circumstances will permit to the existing statutory law respecting valuation lists, as regards notices, rights to inspect and take extracts, the hearing of objections, and otherwise.

(3) The Local Government Board may by order (y) make regulations for the purpose of this section, and also generally for carrying into effect this Act, and those regulations shall be laid before both Houses of Parliament, and if neither House of Parliament within ten days passes a resolution adverse to the said order, they shall be binding in law until varied in the same manner, shall have effect as if they were enacted in this Act, and shall amongst other matters provide—

59 & 60 Vict.  
c. 16.

- (a) for fixing, with the concurrence of the Treasury, for the purpose of the division in the statements of agricultural land from buildings or other hereditaments, the minimum gross estimated rental and rateable value of the buildings or other hereditaments;
- (b) for giving effect to a notice of objection or appeal by the surveyor of taxes unless it is proved that such notice is unfair or incorrect;
- (c) for the temporary adoption by the county council or any other council, of the division in the return between the total rateable value of agricultural land and that of buildings and other hereditaments;
- (d) for the alteration of the valuation list in accordance with the statements as finally settled and sending copies of the returns to spending authorities and for applying and adapting any statutory form or procedure respecting the valuation list (z) or poor rate; and
- (e) for adapting this Act to cases where there is no valuation list, or where a sum is raised by rate from an area not a parish.

(4) The regulations may also provide fines for the breach thereof not exceeding forty shillings, or in case of any continuing offence not exceeding forty shillings a day during the continuance of the offence, and any such fine may be recovered as a Crown debt or to an amount not exceeding one hundred pounds before a court of summary jurisdiction.

7.—(1) Where the spending authority are a school board for a school district which is a parish, or the surveyors of highways, the amount which otherwise would be payable under this Act to the spending authority may be paid to the guardians of the poor law union in which the parish is situate, and, if so paid, shall be paid or credited by them to the spending authority.

As to spending  
authorities.

(2) Every sum paid under this Act out of the local taxation account to any spending authority in respect of any rate, shall, for the purpose of its application, of account, and of audit, be deemed to have been raised by the said rate.

(3) For the purposes of section ninety-seven of the Elementary Education Act, 1870 (a), any amount paid or credited under this Act out of the local taxation account to a school board shall be deemed to have been actually paid by the rating authority, and the amount which would have been raised or been produced by a rate of threepence in the pound on the rateable value shall be calculated in like manner as if this Act had not passed.

33 & 34 Vict.  
c. 75.

8. A limit imposed by any enactment on a rate (b) shall be construed as being only a limit on the amount to be raised by that rate, and where by that limit or otherwise the sum to be raised or expended by a local authority is limited by any enactment by reference to a rate, the limit shall be varied so as to enable the local authority to raise or expend the same sum as they might have done if this Act had not passed, and in the case of a spending authority receiving any sum paid under this Act out of the local taxation account in respect of such rate that sum shall be deemed to be part of the sum raised thereby.

As to limit  
of rate or  
expenditure  
in case of any  
local authority.

9. In this Act, unless the context otherwise requires—

The expression, “rate” means a rate made during the continuance of this Act, the proceeds of which are applicable to public local purposes, and which is leviable on the basis of an assessment in respect of the yearly value of property, and

Definitions.

(y) The order of the Loc. Govt. Bd. under this Act is intituled the Agricultural Rates Order, 1896. Most of its provisions are of a temporary nature, and are now spent.

(z) Statutory forms respecting valuation list.—See the Valuation (Metropolis) Act, 1869, second and fourth schedules, *ante*.

(a) Elementary Education Act, 1870.—Sec. 97 prescribes the conditions to be fulfilled by an elementary school in order to obtain an annual parliamentary grant.

(b) Limited rate.—For instances of a limitation imposed on a rate, see the Public Libraries Act, 1892, sec. 2 (1), *ante*; and the Technical Instruction Act, 1889, sec. (1) (g), *post*.



- 59 & 60 Vict.  
c. 16. includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined :
- The expression "rateable value" in the case of the county rate, or any other rate, levied according to any annual value not being rateable value as stated in the valuation list, means that annual value :
- 25 & 26 Vict.  
c. 103. The expression "valuation list" means a valuation list under the Union Assessment Committee Acts, 1862 and 1864, or, in the Metropolis, under the Valuation (Metropolis) Act, 1869 (c) :
- 27 & 28 Vict.  
c. 39. The expression "spending authority" means any of the local authorities in England mentioned in the schedule to this Act :
- 32 & 33 Vict.  
c. 67. The expression "occupier" includes owner where the owner is rated in place of the occupier :
- The expression "local taxation account" has the same meaning as in the Local Government Act, 1888 :
- 51 & 52 Vict.  
c. 41. The expression "prescribed" means prescribed by order of the Local Government Board :
- The expression "agricultural land" means any land used as arable, meadow, or pasture ground only, cottage gardens exceeding one quarter of an acre, market gardens, nursery grounds, orchards, or allotments, but does not include land occupied together with a house as a park, gardens, other than as aforesaid, pleasure grounds, or any land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse :
- The expression "cottage" means a house occupied as a dwelling by a person of the labouring classes :
- The expression "year" means the local financial year, that is to say, the twelve months beginning on the first day of April, or where the spending authority do not make up their accounts to that day on the nearest day thereto to which they do make up their accounts, or on any other prescribed day.
- Short title. 10. This Act may be cited as the Agricultural Rates Act, 1896.

## SCHEDULE.

## Section 9.

## SPENDING AUTHORITIES.

County councils, councils of county boroughs, councils of boroughs and other urban districts and of rural districts, boards of guardians, the receiver of the metropolitan police district, school boards, highway boards, surveyors of highways.

## LONDON (EQUALISATION OF RATES) ACT, 1894.

57 & 58 Vict. c. 53. An Act to make better provision for the Equalisation of Rates as between the different parts of London.

[25th August, 1894]

Equalisation of  
sanitary  
authorities'  
rates by  
general rate  
over all  
London.

1.—(1) For aiding the equalisation of the rates in London, the London County Council shall in every year form a fund (in this Act called the equalisation fund) equal to a rate of sixpence in the pound on the rateable value of London according to the valuation lists as they stand on the sixth day of April in that year.

(2) The London County Council shall half-yearly determine the contribution from each parish in London to one half of the equalisation fund, and the grant due from that one half of the fund to each parish.

(3) They shall determine the contribution by apportioning the amount of half the equalisation fund among the parishes in proportion to their rateable value according to the said valuation lists.

(4) They shall determine the grant due by apportioning the amount of half

(c) Union Assessment Committee Act, 1862. Valuation (Metropolis) Act, 1869.—*Ante*.



the equalisation fund among the sanitary districts in proportion to their population, and where a sanitary district comprises two or more parishes by dividing that grant among those parishes in proportion to their population, with this exception, that where the aggregate of the contributions from the parishes in the district is less than the grant apportioned to the district, the difference shall be paid out of the equalisation fund to the sanitary authority of the district, and no payment towards any equalisation charge shall be required from any parish in the district.

(5) Subject as aforesaid, where the contribution from a parish—

(a) is less than the grant due, the difference shall be paid out of the equalisation fund to the sanitary authority of the district forming or comprising the parish; but

(b) if it exceeds the grant due to the parish, the council shall, for the special purpose of meeting the excess, levy on the parish a county contribution (called the equalisation charge) as a separate item of the county rate.

(6) Every sum paid under this section to a sanitary authority shall be applied in defraying the expenses of the sanitary authority incurred under the Public Health (London) Act, 1891 (*d*), and so far as not required for that purpose those incurred in respect of lighting, and so far as not required for that purpose those incurred in respect of streets: Provided that where the district of such sanitary authority comprises two or more parishes, the sum paid shall be apportioned among the parishes in proportion to their population, and the amount so apportioned to each parish shall be credited to the parish in reduction of the rates required from such parish towards the above-mentioned expenses. 57 & 58 Vict. c. 53.

(7) Every sanitary authority to whom a sum is paid under this Act in any year shall, within the prescribed time after the following thirty-first day of March, render to the Local Government Board a true account in the prescribed form (*e*) showing, for the twelve months preceding the said day, the total amount of the sum so paid, and the total amount of the expenses incurred by the authority under each of the following heads:—

(a) under the Public Health (London) Act, 1891 (*d*);

(b) in respect of lighting; and

(c) in respect of streets;

and showing the amount expended in respect of each head out of the sums paid to such authority under this Act.

(8) Where the Local Government Board under section one hundred and one of the Public Health (London) Act, 1891 (*d*), are satisfied that a sanitary authority have been guilty of such default as in that section mentioned, and have made an order limiting a time for the performance of the duty of the authority, the London County Council shall, if so directed by the Local Government Board, withhold the whole or any part of the payment (if any) next accruing due from the equalisation fund to such sanitary authority.

Any sums which may during any financial year be withheld in accordance with the foregoing enactment shall be carried forward to the credit of the equalisation fund in the following year, and the amount to be apportioned among the sanitary districts for determining the grant due shall be proportionately increased.

(9) The account of the equalisation fund shall be a separate account of the county fund.

2. The Local Government Board shall by order prescribe the forms of contribution orders, precepts, demand notes, and receipts (*f*), so far as seems to the Board to be necessary for stating therein as a separate item any equalisation charge, and any credit in respect of a receipt under this Act which affects the sum named therein.

Form of contribution orders, demand notes, and receipts.

3.—(1) [*Census to be taken of population of London on night of March 29th, 1896. Spent.*]

Provision for intermediate census.

(*d*) Public Health (London) Act, 1891.—*Antr*, vol. i.

(*e*) Account in prescribed form.—The form of account of receipts and expenditure is prescribed by order of the Loc. Govt. Bd., No. 929, dated July 18th, 1895.

(*f*) Forms of contribution orders, precepts, &c.—The form of precept is prescribed by order of the Loc. Govt. Bd., No. 737, dated October 19th, 1894; and the forms of contribution orders, demand notes, and receipts are prescribed by order of the Loc. Govt. Bd., No. 475, dated Sept. 5th, 1895.

57 & 58 Vict.  
c. 53.

(2) The authority making the poor rate in each such parish shall in every year make to the Local Government Board a return of the total number of houses entered in the rate book of their parish. The return shall be made at such time and in such form, and the numbers shall be ascertained, and the return shall be verified, in such manner as may be prescribed. The Local Government Board shall forward such returns to the Registrar-General, and thereupon he shall estimate the population of the parish on the sixth day of April in that year, and the population so estimated shall for the purposes of this Act be the population of the parish during the twelve months beginning on that day.

(3) [*First return under this section. Spent.*]

(4) If any authority making the poor rate fail to make a return under this section within one month after the time at which such return is required, each of the persons constituting the authority who is in fault shall be liable on summary conviction to a fine not exceeding fifty pounds, and not exceeding ten pounds for every day during which the failure continues after the first conviction for such failure.

Definitions,  
commencement  
of Act, short  
title.  
54 & 55 Vict.  
c. 76.

4.—(1) In this Act, unless the context otherwise requires—

The expression “London” means the administrative county of London.

The expression “sanitary authority” has the same meaning as in the Public

Health (London) Act, 1891, but does not include the port sanitary authority, and “sanitary district” means the district of any authority as so defined (*g*).

The expression “population” means population according to the last published census for the time being, including the census taken in pursuance of this Act, or in any year in which a census is not taken according to the population estimated by the Registrar-General under this Act.

The expression “prescribed” means prescribed by the Local Government Board.

(2) [*Commencement of Act: Sept. 30th, 1894.*]

(3) This Act may be cited as the London (Equalisation of Rates) Act, 1894.

(*g*) **Sanitary authority.** **Sanitary district.**—See the Public Health (London) Act, 1891, sec. 99, *ante*, vol. i.

## REFORMATORY AND INDUSTRIAL SCHOOLS.

|                                                                                      |                      |
|--------------------------------------------------------------------------------------|----------------------|
| 29 & 30 Vict. c. 117 ( " Reformatory Schools Act, 1866 " ).....                      | page 1205            |
| 29 & 30 Vict. c. 118 ( " Industrial Schools Act, 1866 " ).....                       | 1211                 |
| 35 & 36 Vict. c. 21 ( " Reformatory and Industrial Schools Amend. Act, 1872 " )..... | 1219                 |
| 43 & 44 Vict. c. 15 ( " Industrial Schools Acts Amend. Act, 1880 " ).....            | <i>note (g)</i> 1213 |
| 54 & 55 Vict. c. 23 ( " Reformatory and Industrial Schools Act, 1891 " ).....        | 1220                 |
| 56 & 57 Vict. c. 48 ( " Reformatory Schools Act, 1893 " ).....                       | <i>note (c)</i> 1206 |
| 57 & 58 Vict. c. 33 ( " Industrial Schools Acts Amend. Act, 1894 " ) .....           | 1221                 |

REFORMATORY SCHOOLS ACT, 1866 (*a*).

29 & 30 Vict. c. 117. An Act to consolidate and amend the Acts relating to Reformatory Schools in Great Britain. [10th August, 1866

*Preliminary.*

1. This Act may be cited as the Reformatory Schools Act, 1866.
2. This Act shall not extend to Ireland.
3. "Managers" shall include any person or persons having the management or control of any school to which this Act applies :  
 "Justice" shall apply to England only, and shall mean a justice of the peace having jurisdiction in the place where the matter requiring the cognizance of a justice arises :  
 "Justices" shall apply to England only, and shall mean two or more justices in petty sessions, and shall include the Lord Mayor or an alderman of the City of London, or a police or stipendiary magistrate or other justice having by law authority to act alone for any purpose with the powers of two justices :  
 "Magistrate" shall apply to Scotland only . . .  
 "Prison authority" (*b*) shall in England mean the same persons as are defined to be prison authorities by the Prisons Act, 1865 . . .

Short title.  
Application of Act.  
Definition of terms.

28 & 99 Vict.  
c. 126.

*Certified Reformatory Schools.*

4. One of Her Majesty's principal Secretaries of State, hereinafter referred to as the Secretary of State, may, upon the application of the managers of any reformatory school for the better training of youthful offenders, direct one of Her Majesty's inspectors of prisons, who shall be styled the inspector of reformatory schools, to examine into the condition and regulations of the school, and to report to him thereon; and, if satisfied with such report, the Secretary of State may, by writing under his hand, certify that such school is fitted for the reception of such youthful offenders as may be sent there in pursuance of this Act, and the same shall be deemed a certified reformatory school.

Mode of certifying reformatory schools.

No substantial addition or alteration shall be made to or in the buildings of any certified reformatory school without the approval in writing of the Secretary of State.

5. Every certified reformatory school shall from time to time, and at least once in every year, be visited by the inspector of reformatory schools; and the Secretary of State, if dissatisfied with the condition of such school as reported to him, may withdraw the certificate, and may by notice under his hand, addressed

Inspection of school.

(*a*) **Application of Act.**—See note to sec. 3. Such provisions as are not set out do not affect the powers and duties of the local authorities.

(*b*) **Prison authority.**—The Prisons Act, 1865, sec. 5, defined "prison authority" to be, as respects county prisons, the justices in quarter sessions assembled, and as respects any prison belonging to the City of London, or the liberties thereof, the court of the Lord Mayor and aldermen. The business in respect of reformatory and industrial schools was transferred from the justices to the county council by the Loc. Govt. Act, 1888, sec. 3 (vii), *ante*, vol. i.; and from the court of the Lord Mayor and aldermen to the common council by *ib.*, sec. 41(1)(a). The common council is now, therefore, substituted for the "prison authority" in the City of London, and the London County Council in the rest of the county of London.



29 & 30 Vict.  
c. 117.

and sent to the managers of such school, declare that the certificate is withdrawn as from a time specified in the notice, being not less than six months after the date of the notice.

6. [*Power to Secretary of State to appoint assistant to inspector.*]

Resignation of  
certificate by  
managers.

7. The managers of any certified reformatory school may, upon giving six months', and the executors or administrators of a deceased manager (if only one) of any certified reformatory school may, upon giving one month's previous notice in writing of their intention so to do, resign the certificate given to such school; and accordingly, at the expiration of six months or one month (as the case may be) from the date of the notice (unless before that time the notice is withdrawn), the certificate shall be deemed to be resigned.

Liabilities of  
managers.

8. The managers of a certified reformatory school may decline to receive any youthful offender proposed to be sent to them under this Act, but when they have once received him they shall be deemed to have undertaken to educate, clothe, lodge, and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate takes effect, or until the contribution out of money provided by Parliament towards the custody and maintenance of the offenders detained in the school is discontinued, whichever shall first happen.

Effect of  
withdrawal of  
certificate.

9. Whenever the certificate is withdrawn from or resigned by the managers of a reformatory school no youthful offender shall be received into such school after the date of the receipt by the managers of the school of the notice of withdrawal or after the date of the notice of resignation (as the case may be); but the obligation of the managers to educate, clothe, lodge, and feed any youthful offenders in the school at the respective dates aforesaid shall, excepting so far as the Secretary of State may otherwise direct, be deemed to continue until the withdrawal or resignation of the certificate takes effect, or until the contribution out of money provided by Parliament towards the custody and maintenance of the offenders detained in the school is discontinued, whichever shall first happen.

Disposal of  
inmates on  
withdrawal  
or resignation  
of certificate.

10. When the withdrawal or resignation of the certificate of a reformatory school takes effect, the youthful offenders detained therein shall be, by the order of the Secretary of State, either discharged or transferred to some other certified reformatory school.

Publication  
of the grant  
or withdrawal  
of certificate.

11. A notice of the grant of any certificate to a reformatory school, or of the withdrawal or resignation of such a certificate, shall within one month be advertised by order of the Secretary of State, as to a school in England, in the London Gazette, and as to a school in Scotland, in the Edinburgh Gazette.

Power to make  
rules, &c.

12. The managers of any certified reformatory school may from time to time make all necessary rules for the management and discipline of the school under their charge, but such rules shall not be contrary to the provisions of this Act, and shall not be enforced until they have been submitted to and approved in writing by the Secretary of State, and no alteration shall be made without the approval in writing of the Secretary of State in any rules so approved.

Officers to have  
privileges, &c.  
of constables.

13. Every officer of a certified reformatory school authorised by the managers of the school, in writing under their hands or the hand of their secretary, to take charge of any youthful offender sentenced to detention under this Act for the purpose of conveying him to or from the school, or of bringing him back to the school in case of his escape or refusal to return, shall, for such purpose and while engaged in such duty, have all such powers, authorities, protection, and privileges for the purpose of the execution of his duty as a reformatory officer as any constable duly appointed has within his constableness by common law, statute, or custom.

Commitment  
of offenders  
between 12  
and 16 years  
of age to  
reformatory  
schools.

*Commitment of Offenders to and their Status at a Certified Reformatory School.*

14 (c) . . . The particular school to which the youthful offender is to be

(c) **Section 14.**—The words omitted are repealed, and the following provisions substituted, by the Reformatory Schools Act, 1893 (56 & 57 Vict. c. 48), sec. 1:—  
"Where a youthful offender, who in the opinion of the court before whom he is

sent may be named either at the time of his sentence being passed, or within seven days thereafter, by the court, justices, or magistrate who sentenced him, or in default thereof at any time before the expiration of his imprisonment by any visiting justice of the prison to which he is committed.

29 & 30 Vict.  
c. 117.

In choosing a certified reformatory school, the court, justices, magistrate, or visiting justice shall endeavour to ascertain the religious persuasion to which the youthful offender belongs, and, so far as is possible, a selection shall be made of a school conducted in accordance with the religious persuasion to which the youthful offender appears to the court, justices, magistrate, or visiting justice to belong, which persuasion shall be specified by the court, justices, magistrate, or visiting justice.

It shall be lawful, upon the representation of the parent, or in the case of an orphan then of the guardian or nearest adult relative, of any offender detained in any such school, for a minister of the religious persuasion of such offender, at certain fixed hours of the day, which shall be fixed by the Secretary of State for the purpose, to visit such school for the purpose of affording religious assistance to such offender, and also for the purpose of instructing such offender in the principles of his religion.

15. The gaoler of every prison having in his custody any youthful offender sentenced to be sent to a reformatory school shall at the appointed time deliver such offender into the custody of the superintendent or other person in charge of the school in which he is to be detained, together with the warrant or other document in pursuance of which the offender was imprisoned and is sent to such school.

Removal of offender to certified reformatory school.

The possession of the warrant or other document in pursuance of which a youthful offender is sent to a certified reformatory school shall be a sufficient authority for his detention in such school.

16. The parent, step-parent, or guardian, or if there be no parent, step-parent, or guardian, then the god-parent or nearest adult relative of any youthful offender sent or about to be sent to a certified reformatory school which is not conducted in accordance with the religious persuasion to which the offender belongs, may apply to the court by whom such offender was sentenced to be sent to a reformatory school, or to the visiting justices of the prison to which he was committed by that court, or to the justices or magistrate by whom he was sentenced to be sent to a reformatory school (or justices or a magistrate having the like jurisdiction), to send or to remove such offender to a certified reformatory school conducted in accordance with the offender's religious persuasion, and the court, visiting justices, justices, or magistrate (as the case may be) shall, upon proof of such offender's religious persuasion, comply with the request of the applicant, provided—

Power to parent, &c. to apply to remove offender to a school conducted in accordance with offender's religious persuasion.

First, that the application be made before the offender has been sent to a certified reformatory school, or within thirty days after his arrival at such a school;

Secondly, that the applicant show to the satisfaction of the court, visiting justices, justices, or magistrate that the managers of the school named by him are willing to receive the offender.

17. The Secretary of State may at any time order any offender to be discharged from a certified reformatory school, or to be removed from one certified reformatory school to another, but so that the whole period of detention of the offender in a reformatory school shall not be increased by such removal.

Discharge or removal by order of Secretary of State.

The Secretary of State may also at any time, after having given ten days' notice to the managers, order a youthful offender under sentence of detention in

charged is less than sixteen years of age, is convicted, whether on indictment or by a court of summary jurisdiction, of an offence punishable with penal servitude or imprisonment, and either—

(a) appears to the court to be not less than twelve years of age; or

(b) is proved to have been previously convicted of an offence punishable with penal servitude or imprisonment,

the court may, in addition to or in lieu of sentencing him according to law to any punishment, order that he be sent to a certified reformatory school, and be there detained for a period of not less than three and not more than five years, so, however, that the period is such as will in the opinion of the court expire at or before the time at which the offender will attain the age of nineteen years."

29 & 30 Vict.  
c. 117.

a reformatory or industrial school established under any other Act of Parliament, the general rules for the government whereof have been approved by the Secretary of State, to be discharged from such school, or to be removed therefrom to any certified reformatory school, and in case of removal the youthful offender shall after such removal be deemed to be subject in all respects to the provisions of this Act, but so that the whole period of detention of the offender under his sentence shall not be increased by such removal.

Placing  
offenders out  
on licence.

**18.** The managers of a certified reformatory school may, at any time after the expiration of eighteen months of the period of detention allotted to a youthful offender, by licence under their hands, permit him to live with any trustworthy and respectable person named in the licence willing to receive and take charge of him.

Any licence so granted shall not be in force for more than three months, but may at any time before the expiration of such three months be renewed for a further period not exceeding three months, to commence from the expiration of the previous period of three months, and so from time to time until the youthful offender's period of detention is expired.

Any such licence may also be revoked by the managers of the school, by writing under their hands, at any time before the expiration of such period of three months, and thereupon the youthful offender to whom the licence related may be required by the managers, by writing under their hands, to return to the school.

The time during which a youthful offender is absent from a certified reformatory school in pursuance of a licence under this section shall, except where such licence has been forfeited by his misconduct, be deemed to be part of the time of his detention in the school, and at the expiration of the time fixed by his licence he shall be taken back to the school.

Any youthful offender escaping from the person with whom he is placed in pursuance of this section, or refusing to return to the school at the expiration of the time fixed by his licence, or any renewal thereof, or when required to do so on the revocation of his licence, shall be liable to the same penalty as if he had escaped from the school itself.

Power to  
apprentice  
offenders.

**19.** The managers of a certified reformatory school may, at any time after an offender has been placed out on licence as aforesaid, if he conducted himself well during his absence from the school, bind him, with his own consent, apprentice to any trade, calling, or service, notwithstanding that his period of detention has not expired; and every such binding shall be valid and effectual to all intents (*d*).

#### *Offences in relation to Reformatory Schools.*

Refusal to  
conform to  
rules.

**20.** If any offender detained in a certified reformatory school wilfully neglects or wilfully refuses to conform to the rules thereof, he shall, upon summary conviction before a justice or magistrate having jurisdiction in the place or district where the school is situate, be imprisoned, with or without hard labour, for any term not exceeding three months; and at the expiration of the term of his imprisonment he shall, by and at the expense of the managers of the school, be brought back to the school from which he was taken, there to be detained during a period equal to so much of his period of detention as remained unexpired at the time of his being sent to prison.

Escaping from  
school.

**21.** If any offender sentenced to be detained in a certified reformatory school escapes therefrom, he may, at any time before the expiration of his period of detention, be apprehended without warrant, and, if the managers of the school think fit, but not otherwise, may (any other Act to the contrary notwithstanding) be then brought before a justice or magistrate having jurisdiction in the place or district where he is found, or in the place or district where the school from which he escaped is situate; and he shall thereupon be liable, on summary conviction before such a justice or magistrate, to be imprisoned, with or without hard labour, for any term not exceeding three months; and at the expiration of such term he shall, by and at the expense of the managers of the school, be brought back to the school from which he escaped, there to be detained during

(*d*) **Power to apprentice offenders.**—See further the Reformatory and Industrial Schools Act, 1891, *part*.



a period equal to so much of his period of detention as remained unexpired at the time of his escaping. 29 & 30 Vict. c. 117.

**22.** [*Penalty on persons inducing offenders to escape from certified reformatory schools (c).*]

*Expenses of Reformatory Schools.*

**23.** The expense of conveying to any certified reformatory school any youthful offender who has been directed to be detained in such a school, and the expense of proper clothing for him requisite for his admission to the school, shall be defrayed as a current expense by the prison authority within whose district he has been last imprisoned. Expenses of conveyance and clothing.

**24.** The Treasury may contribute, out of money provided by Parliament, such sum as the Secretary of State may recommend towards the expenses of the custody and maintenance of any offender detained in a certified reformatory school, or in discharge of the expenses of any removal of an offender which has been ordered under the provisions of this Act. Contribution by Treasury.

**25.** The parent or step-parent or other person legally liable to maintain any youthful offender detained in a certified reformatory school shall, if of sufficient ability, contribute to his support and maintenance therein a sum not exceeding five shillings per week. Order of justices for contribution to maintenance of offenders in school.

On the complaint of the inspector of reformatory schools, or of any agent of the inspector, or of any constable under the directions of the inspector (with which directions the constable is hereby required to comply), at any time during the continuance of the offender in the school, any justices or magistrate having jurisdiction at the place where the parent, step-parent, or other person liable as aforesaid resides, may, on summons to the parent or step-parent or other person liable as aforesaid, examine into his or her ability, and may, if they or he think fit, make an order or decree on him or her for the payment to the inspector of reformatory schools, or to an agent of the inspector, of such weekly sum, not exceeding five shillings per week, as to them or him seems reasonable, during the whole or any part of the period for which the offender is liable to be detained in the school.

Every such order or decree may specify the time during which the payment is to be made, or may be until further order.

In Scotland . . .

Every such payment shall go in relief of the charges on Her Majesty's Treasury, and shall be accounted for as the Treasury direct.

The Secretary of State may, in his discretion, remit all or any part of any payment so ordered.

**26.** Any justices or magistrate having jurisdiction to make such order or decree may from time to time vary the same as circumstances require, on the application either of the person on whom the order or decree is made, or of the inspector of reformatory schools, or of any agent of the inspector, on fourteen days' notice being first given of such application to the inspector or agent, or to such person respectively. Variation of order.

**27.** Any prison authority (*f*) may contract with the managers of any certified reformatory school for the reception and maintenance therein of offenders whose detention in a certified reformatory school is directed by a court, or justices, or a magistrate, acting for or within the district of the contracting prison authority (*f*), in consideration of such payments as may be from time to time agreed on. Power of prison authority to contract with managers of schools

**28.** A prison authority (*f*) in England may from time to time contribute (*g*) such sums of money, and upon such conditions as it may think fit, towards the alteration, enlargement, or rebuilding of a certified reformatory school or Contribution to establishment and enlargement of certified reformatory schools.

(*c*) **Section 22.**—The terms of this section are identical with those of sec. 34 of the Industrial Schools Act, 1866, *post*, with the substitution of "offender" for "child," and "reformatory" for "industrial."

(*f*) **Prison authority.**—Now the common council in the City, and the county council in the rest of London. See note to sec. 3, *ante*.

(*g*) **Authority may contribute.**—This section is extended by the Reformatory and Industrial Schools Act Amend. Act, 1872, *post*, to authorise the authority themselves to undertake anything towards which they are authorised by this section to contribute.

29 & 30 Vict.  
c. 117.

towards the support of the inmates of such a school—or towards the management of such a school—or towards the establishment or building of a school intended to be a certified reformatory school—or towards the purchase of any land required for the use of an existing certified reformatory school, or for the site of any school intended to be a certified reformatory school; Provided—

First, that not less than two months' previous notice of the intention of the *prison authority* (*h*) to take into consideration the making of such contribution, at a time and place to be mentioned in such notice, be given by advertisement in some one or more public newspaper or newspapers circulated within the district of the *prison authority* (*h*), and also in the manner in which notices relating to business to be transacted by that authority are usually given :

Secondly, that where the council of a borough is the prison authority . . .

Thirdly, that where the contribution is for alteration, enlargement, rebuilding, establishment, or building of a school or intended school, or for purchase of land, the approval of the Secretary of State be previously given for that alteration, enlargement, rebuilding, establishment, building, or purchase.

\* \* \* \* \*

Mode of  
obtaining  
sanction of  
Secretary of  
State.

29. In order to obtain the approval of the Secretary of State as aforesaid where required, the managers of the school, or promoters of the intended school, shall forward to the Secretary of State particulars of the proposed establishment or purchase, and a plan of the proposed alteration, enlargement, rebuilding, or building, drawn on such scale, and accompanied by such particulars and estimate of cost, as the Secretary of State thinks fit to require; and the Secretary of State may approve of the plan and particulars submitted to him, with or without modification, or may disapprove of the same, and his approval or disapproval shall be certified by writing under his hand.

30. [*Expenses incurred in executing Act, how defrayed* (*i*).]

\* \* \* \* \*

31. [*Houses of refuge, &c. in Scotland.*]

#### *Conditional Pardons.*

Power to  
Secretary of  
State to send  
offenders to  
reformatory  
schools on  
conditional  
pardon.

32. Where a youthful offender has been sentenced to transportation, penal servitude, or imprisonment, and has been pardoned by Her Majesty on condition of his placing himself under the care of some charitable institution for the reception and reformation of youthful offenders, the Secretary of State may direct him, if under the age of sixteen years, to be sent to a certified reformatory school, the managers of which consent to receive him for a period of not less than two years and not more than five years; and thereupon such offender shall be deemed to be subject to all the provisions of this Act, as if he had been originally sentenced to detention in a certified reformatory school.

#### *Evidence.*

Rules re-  
specting  
evidence  
under this  
Act.

33. The following rules shall be enacted with respect to evidence under this Act :

- (1) The production of the London or Edinburgh Gazette containing a notice of the grant or withdrawal of a certificate by the Secretary of State to or from a reformatory school or of the resignation of any such certificate, shall be sufficient evidence of the fact of the publication of such notice, and also of the fact of a certificate having been duly granted to or withdrawn from the school named in the notice, or resigned by the managers thereof.
- (2) The grant of a certificate to a certified school may also be proved by the production of the certificate itself, or of a copy of the same, purporting to be signed by the inspector of reformatory schools.
- (3) The production of the warrant or other document in pursuance of which a youthful offender is directed to be sent to a certified reformatory school, with

(*h*) **Prison authority.**—See note (*h*) on page 1205.

(*i*) **Expenses.**—This section is obsolete. The expenses incurred by the county council in executing the provisions of this Act are defrayed out of the special county rate. See Loc. Govt. Act, 1888, sec. 41 (3) and note thereto, *ante*, vol. i. The expenses incurred by the common council are defrayed out of the City's corporate funds and dues.

a statement indorsed thereon or annexed thereto, purporting to be signed by the superintendent or other person in charge of the school, to the effect that the offender therein named was duly received into and is at the date of the signing thereof detained in the school, or has been otherwise dealt with according to law, shall in all proceedings relating to such offender be evidence of the identity of and of the due conviction and imprisonment of and subsequent detention of the offender named in the warrant or other document.

29 & 30 Vict.  
c. 117.

- (4) A copy of the rules of a certified reformatory school, purporting to be signed by the inspector of reformatory schools, shall be evidence of such rules in all legal proceedings whatever.
- (5) A school to which any youthful offender is directed to be sent in pursuance of this Act shall, until the contrary is proved, be deemed to be a certified reformatory school within the meaning of this Act.

#### *Legal Proceedings.*

**34.** The following Acts, that is to say—

In England, the Summary Jurisdiction Act, 1848, and any Acts amending the same;

Recovery of  
penalties.  
11 & 12 Vict.  
c. 43.

In Scotland, the Summary Procedure Act, 1864—

shall apply to all offences, payments, and orders in respect of which jurisdiction is given to justices or a magistrate by this Act, or which are directed to be prosecuted, enforced, or made in a summary manner or upon summary conviction.

**35.** Any notice may be served on the managers of a certified reformatory school by delivering the same personally to any one of them, or by sending it, by post or otherwise, in a letter addressed to them or any of them at the school, or at the usual or last known place of abode of any manager, or of their secretary.

Service of  
notice on  
managers of  
schools.

#### *Forms.*

**36.** No summons, notice, or order made for the purpose of carrying into effect the provisions of this Act shall be invalidated for want of form only; and the forms in the schedule to this Act annexed, or forms to the like effect, may be used in the cases to which they refer, with such variations as circumstances require, and when used shall be deemed sufficient.

Use of forms  
in schedule.

**37.** [*Repeal of enactments.* Rep. 38 & 39 Vict. c. 66. *Statute Law Revision.*]

**38.** This Act shall apply to all reformatory schools certified under the Acts hereby repealed, or any of them, in the same manner in all respects as if such schools had been certified under this Act . . .

Application  
of Act to  
existing cer-  
tified schools.

#### SCHEDULE.

##### FORMS (*k*).

\* \* \* \* \*

#### INDUSTRIAL SCHOOLS ACT, 1866 (*l*).

**29 & 30 Vict. c. 118.** An Act to consolidate and amend the Acts relating to Industrial Schools in Great Britain. [10th August, 1866]

#### *Preliminary.*

1. This Act may be cited as the Industrial Schools Act, 1866.
2. This Act shall not extend to Ireland.

Short title.

Extent of Act.

(*k*) **Forms.**—Forms A., B., and C. are repealed by 56 Vict. c. 14, Statute Law Revision; and the other forms are not set out, as they are not for the use of the local authorities.

(*l*) **Application of Act.**—See note to sec. 4. Such provisions as are not set out do not affect the powers and duties of the local authorities.



29 & 30 Vict.  
c. 118.

Interpretation  
of terms.

28 & 29 Vict.  
c. 126.

Description of  
industrial  
schools and  
managers.

Inspector of  
industrial  
schools and  
assistant.

Mode of  
certifying  
industrial  
schools.

School not to  
be certified as  
industrial and  
reformatory.  
Notices of  
certificate to  
be gazetted.  
Copy of  
Gazette to  
be evidence.  
Inspection of  
school.

Alterations,  
&c. of build-  
ings to be  
approved.

3. [*Repealed* 38 & 39 Vict. c. 66. *Statute Law Revision*.]

4. In this Act—

The term “justice” applies to England only, and means a justice of the peace having jurisdiction in the place where the matter requiring the cognizance of a justice arises:

The term “two justices” applies to England only, and means two or more justices in petty sessions, or the Lord Mayor or an alderman of the City of London, or a police or stipendiary magistrate or other justice having by law authority to act alone for any purpose with the powers of two justices:

The term “magistrate” applies to Scotland only . . .

The term “prison authority” (*m*) with respect to England has the same meaning as in the Prisons Act, 1865 . . .

The term “parish” includes a place separately maintaining its own poor.

#### *Industrial Schools.*

5. A school in which industrial training is provided, and in which children are lodged, clothed, and fed, as well as taught, shall exclusively be deemed an industrial school within the meaning of this Act.

The persons for the time being having the management or control of such a school shall be deemed the managers thereof for the purposes of this Act.

#### *Inspector.*

6. Such one of Her Majesty’s inspectors of prisons as one of Her Majesty’s principal Secretaries of State (in this Act referred to as the Secretary of State) from time to time thinks fit to appoint to be the inspector of reformatory schools shall be also the inspector of industrial schools.

The Secretary of State may from time to time appoint a fit person to assist the inspector; and every person so appointed shall have such of the powers and duties of the inspector of industrial schools as the Secretary of State from time to time prescribes, but shall act under the direction of the inspector.

#### *Certified Industrial Schools.*

7. The Secretary of State may, on the application of the managers of an industrial school, direct the inspector of industrial schools to examine into the condition of the school, and its fitness for the reception of children to be sent there under this Act, and to report to him thereon, and the inspector shall examine and report accordingly.

If satisfied with the report of the inspector the Secretary of State may, by writing under his hand, certify that the school is fit for the reception of children to be sent there under this Act, and thereupon the school shall be deemed a certified industrial school.

8. A school shall not be at the same time a certified industrial school under this Act and a certified reformatory school under any other Act.

9. A notice of the grant of each certificate shall within one month be inserted by order of the Secretary of State in the London or in the Edinburgh Gazette, according as the school to which it refers is in England or in Scotland.

A copy of the Gazette containing the notice shall be conclusive evidence of the grant, which may also be proved by the certificate itself, or by an instrument purporting to be a copy of the certificate, and to be attested as such by the inspector of industrial schools.

10. Every certified industrial school shall from time to time, and at least once in each year, be inspected by the inspector of industrial schools, or by a person appointed to assist him as aforesaid.

11. No substantial addition or alteration shall be made to or in the buildings of any certified industrial school without the approval in writing of the Secretary of State.

(*m*) **Prison authority.**—Now the common council in the City, and the county council in the rest of London. See note to sec. 3 of the Reformatory Schools Act, 1866, *ante*.

12. In England a *prison authority* (*n*) may from time to time contribute (*o*) such sums of money, and on such conditions as they think fit, towards the alteration, enlargement, or rebuilding of a certified industrial school—or towards the support of the inmates of such a school—or towards the management of such a school—or towards the establishment or building of a school intended to be a certified industrial school—or towards the purchase of land required either for the use of an existing certified industrial school, or for the site of a school intended to be a certified industrial school; Provided—

29 & 30 Vict.  
c. 118.

Contribution  
by counties  
and borough  
to establish-  
ment and  
enlargement  
of schools.

First, that not less than two months' previous notice of the intention of the prison authority to take into consideration the making of such contribution, at a time and place to be mentioned in such notice, be given by advertisement in some one or more public newspaper or newspapers circulated within the district of the county or borough, and also in the manner in which notices relating to business to be transacted by the *prison authority* (*n*) are usually given:

Secondly, that where the prison authority is the council of a borough . . .

Thirdly, that where the contribution is for alteration, enlargement, rebuilding, establishment, or building of a school or intended school, or for purchase of land, the approval of the Secretary of State be previously given for that alteration, enlargement, rebuilding, establishment, building, or purchase.

\* \* \* \* \*

13. In order to obtain the approval of the Secretary of State as aforesaid where required, the managers of the school, or promoters of the intended school, shall forward to the Secretary of State particulars of the proposed establishment or purchase, and a plan of the proposed alteration, enlargement, rebuilding, or building, drawn on such scale, and accompanied by such particulars and estimate of cost, as the Secretary of State thinks fit to require; and the Secretary of State may approve of the particulars and plan submitted to him, with or without modification, or may disapprove of the same, and his approval or disapproval shall be certified by writing under his hand.

Mode of  
obtaining  
approval of  
Secretary of  
State.

*Classes of Children to be Detained in Certified Industrial Schools.*

14. Any person may bring before two justices (*p*) or a magistrate any child apparently under the age of fourteen years that comes within any of the following descriptions, namely (*q*)—

As to children  
under 14 year  
of age found  
begging, &c.

That is found begging or receiving alms (whether actually or under the pretext of selling or offering for sale anything), or being in any street or public place for the purpose of so begging or receiving alms:

That is found wandering and not having any home or settled place of abode, or proper guardianship, or visible means of subsistence:

(*n*) **Prison authority.**—Now the common council in the City, and the county council in the rest of London. See note to sec. 3 of the Reformatory Schools Act, 1866, *ante*. The Elementary Education Act, 1870 (33 & 34 Vict. c. 75), sec. 27, confers on the school board the same power of contributing money in the case of an industrial school as is given to a prison authority under this section, and sec. 28 of that Act empowers them, with the consent of the Education Department, to establish and maintain a certified industrial school.

(*o*) **Authority may contribute.**—This section is extended, by the Reformatory and Industrial Schools Amend. Act, 1872, *post*, to authorise the authority themselves to undertake anything towards which they are authorised by this section to contribute.

(*p*) **Two justices.**—See sec. 4, *supra*, for definition of this expression.

(*q*) **Following descriptions.**—This section is to be read and construed as if, after the four several descriptions therein contained, there were added the following descriptions, namely:—

“That is lodging, living, or residing with common or reputed prostitutes, or in a house resided in or frequented by prostitutes for the purpose of prostitution.

That frequents the company of prostitutes.” Industrial Schools Acts Amend. Act, 1880 (43 & 44 Vict. c. 15).

A private person has a right to apply to the justices for the removal to an industrial school of a child living in a house resided in by prostitutes. *Walker v. Lawton*, 58 J. P. 574; 70 L. T. (N. S.) 690.

By the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), the school board is empowered to take proceedings to have children sent to an industrial school for non-attendance and other causes.

29 & 30 Vict.  
c. 118.

That is found destitute, either being an orphan or having a surviving parent who is undergoing penal servitude or imprisonment :

That frequents the company of reputed thieves (*r*).

The justices or magistrate before whom a child is brought as coming within one of those descriptions, if satisfied on inquiry of that fact, and that it is expedient to deal with him under this Act, may order him to be sent to a certified industrial school.

As to children  
under 12 years  
of age charged  
with offences.

15. Where a child apparently under the age of twelve years is charged before two justices or a magistrate with an offence punishable by imprisonment or a less punishment, but has not been in England convicted of felony, or in Scotland of theft, and the child ought, in the opinion of the justices or magistrate (regard being had to his age and to the circumstances of the case) to be dealt with under this Act, the justices or magistrate may order him to be sent to a certified industrial school.

As to  
refractory  
children under  
14 years of  
age in charge  
of parent, &c.

16. Where the parent or step-parent or guardian of a child apparently under the age of fourteen years represents to two justices or a magistrate that he is unable to control the child, and that he desires that the child be sent to an industrial school under this Act, the justices or magistrate, if satisfied on inquiry that it is expedient to deal with the child under this Act, may order him to be sent to a certified industrial school.

As to  
refractory  
children  
under 14  
years of age  
in workhouses,  
pauper schools,  
&c.

17. Where the guardians of the poor of a union or of a parish wherein relief is administered by a board of guardians, or the board of management of a district pauper school, or the parochial board of a parish or combination, represent to two justices or a magistrate that any child apparently under the age of fourteen years maintained in a workhouse or pauper school of a union or parish, or in a district pauper school, or in the poorhouse of a parish or combination is refractory, or is the child of parents either of whom has been convicted of a crime or offence punishable with penal servitude or imprisonment, and that it is desirable that he be sent to an industrial school under this Act, the justices or magistrate may, if satisfied that it is expedient to deal with the child under this Act, order him to be sent to a certified industrial school.

#### *Order of Detention.*

Form and  
contents of  
order sending  
child to school.

18. The order of justices or a magistrate sending a child to a school (in this Act referred to as the order of detention in a school (shall be in writing signed by the justices or magistrate, and shall specify the name of the school.

The school shall be some certified industrial school (whether situate within the jurisdiction of the justices or magistrate making the order or not) the managers of which are willing to receive the child ; and the reception of the child by the managers of the school shall be deemed to be an undertaking by them to teach, train, clothe, lodge, and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school takes effect, or until the contribution out of money provided by Parliament towards the custody and maintenance of the children detained in the school is discontinued, whichever shall first happen.

The school named in the order shall be presumed to be a certified industrial school until the contrary is shown.

In determining on the school the justices or magistrate shall endeavour to ascertain the religious persuasion to which the child belongs, and shall, if possible, select a school conducted in accordance with such religious persuasion, and the order shall specify such religious persuasion.

The order shall specify the time for which the child is to be detained in the school, being such time as to the justices or magistrate seems proper for the teaching and training of the child, but not in any case extending beyond the time when the child will attain the age of sixteen years.

19. [*Power to justices to order temporary detention in workhouse, &c.*]

(*r*) **Company of reputed thieves.**—Where a charge of larceny against a child is dismissed, but evidence is given that he frequents the company of reputed thieves, he may be sent to an industrial school upon an application under this section without being brought afresh before the court upon a substantive charge under the section. *Reg. v. Jennings* (1896), 1 Q. B. 64 ; 65 L. J. M. C. 26.



20. If the parent, step-parent, or guardian, or if there be no parent, step-parent, or guardian, then the god-parent or nearest adult relative, of a child sent or about to be sent to a certified industrial school which is not conducted in accordance with the religious persuasion to which the child belongs, states to the justices or magistrate by whom the order of detention has been or is about to be made (or to two justices or a magistrate having the like jurisdiction) that he objects to the child being sent to or detained in the school specified or about to be specified in the order, and names another certified industrial school in Great Britain which is conducted in accordance with the religious persuasion to which the child belongs, and signifies his desire that the child be sent thereto, then and in every such case the justices or magistrate shall, upon proof of such child's religious persuasion, comply with the request of the applicant, provided—

First, that the application be made before the child has been sent to a certified industrial school, or within thirty days after his arrival at such a school :

Secondly, that the applicant show to the satisfaction of the justices or magistrate that the managers of the school named by him are willing to receive the child :

Provided always, with respect to Scotland . . .

21. [*Where order to be for detention in school of parochial board in Scotland.*]

22. The order of detention in a school shall be forwarded to the managers of the school with the child, and shall be a sufficient warrant for the conveyance of the child thither, and his detention there.

23. The expense of conveying to a certified industrial school a child ordered to be sent there shall be defrayed by the police authorities by whom he is conveyed, and shall be deemed part of the current expenses of those police authorities.

24. An instrument purporting to be an order of detention in a school and to be signed by two justices or a magistrate, or purporting to be a copy of such an order and to be certified as such a copy by the clerk to the justices or magistrate by whom the order was made, shall be evidence of the order.

#### *Management of School.*

25. A minister of the religious persuasion specified in the order of detention as that to which the child appears to the justices or magistrate to belong may visit the child at the school on such days and at such times as are from time to time fixed by regulations made by the Secretary of State for the purpose of instructing him in religion.

26. The managers of a school may permit a child sent there under this Act to lodge at the dwelling of his parent or of any trustworthy and respectable person, so that the managers teach, train, clothe, and feed the child in the school as if he were lodging in the school itself, and so that they report to the Secretary of State, in such manner as he thinks fit to require, every instance in which they exercise a discretion under this section.

27. The managers of a school may, at any time after the expiration of eighteen months of the period of detention allotted to a child, by licence under their hands, permit him to live with any trustworthy and respectable person named in the licence, and willing to receive and take charge of him.

Any licence so granted shall not be in force for more than three months, but may at any time before the expiration of those three months be renewed for a further period not exceeding three months, to commence from the expiration of the previous period of three months, and so from time to time until the period of the child's detention is expired.

Any such licence may also be revoked at any time by the managers of the school by writing under their hands, and thereupon the child to whom the licence related may be required by them, by writing under their hands, to return to the school.

The time during which a child is absent from a school in pursuance of a licence shall, except where such licence has been forfeited by his misconduct, be deemed to be part of the time of his detention in the school, and at the expiration of the time allowed by the licence he shall be taken back to the school.

29 & 30 Vict.  
c. 118.

Power to  
parent, &c.  
to apply to  
remove child  
to a school  
conducted in  
accordance  
with child's  
religious  
persuasion.

Order to be  
warrant for  
conveyance  
and detention.  
Expenses of  
conveyance  
to school.

Evidence of  
order of  
detention.

Religious  
instruction  
in school.

Lodging child  
out of school.

Licence for  
living out of  
school.

29 & 30 Vict.  
c. 118.

A child escaping from the person with whom he is placed under a licence, or refusing to return to the school on the revocation of his licence, or at the expiration of the time allowed thereby, shall be deemed to have escaped from the school.

Power to  
apprentice  
child.

**28.** The managers of a school may, at any time after a child has been placed out on licence as aforesaid, if he conducted himself well during his absence from the school, bind him, with his own consent, apprentice to any trade, calling, or service, notwithstanding that his period of detention has not expired, and every such binding shall be valid and effectual to all intents (*s*).

Rules of school  
to be approved  
by Secretary  
of State.

**29.** The managers of a certified industrial school may from time to time make rules for the management and discipline of the school, not being inconsistent with the provisions of this Act; but those rules shall not be enforced until they have been approved in writing by the Secretary of State; and rules so approved shall not be altered without the like approval.

A printed copy of rules purporting to be the rules of a school so approved and to be signed by the inspector of industrial schools shall be evidence of the rules of the school.

Evidence as to  
reception in  
school, &c.

**30.** A certificate purporting to be signed by one of the managers of a certified industrial school or their secretary, or by the superintendent or other person in charge of the school to the effect that the child therein named was duly received into and is at the signing thereof detained in the school, or has been duly discharged or removed therefrom or otherwise disposed of according to law, shall be evidence of the matters therein stated.

Liability to  
removal not  
affected by stay  
at school.

**31.** The time during which a child is detained in a school under this Act shall for all purposes be excluded in the computation of time mentioned in section one of the Act of the session of the ninth and tenth years of Her Majesty's reign (chapter sixty-six), "to amend the laws relating to the removal of the poor," as amended by any other Act.

#### *Offences at School, &c.*

Refusal to  
conform to  
rules.

**32.** If a child sent to a certified industrial school, and while liable to be detained there, being apparently above ten years of age, and whether lodging in the school itself or not, wilfully neglects or wilfully refuses to conform to the rules of the school, he shall be guilty of an offence against this Act, and on summary conviction thereof before two justices or a magistrate shall be liable to be imprisoned, with or without hard labour, for any term not less than fourteen days and not exceeding three months, and the justices or magistrate before whom he is convicted may direct him to be sent at the expiration of the term of his imprisonment to a certified reformatory school, and to be there detained subject and according to the provisions of the Reformatory Schools Act, 1866 (*t*).

29 & 30 Vict.  
c. 117.  
Penalty  
on child  
escaping from  
school.

**33.** If a child sent to a certified industrial school, and while liable to be detained there, and whether lodging in the school itself or not, escapes from the school, or neglects to attend thereat, he shall be guilty of an offence against this Act, and may at any time before the expiration of his period of detention be apprehended without warrant, and may (any other Act to the contrary notwithstanding) be then brought before a justice or magistrate having jurisdiction in the place or district where he is found, or in the place or district where the school from which he escaped is situate; and he shall thereupon be liable, on summary conviction before such a justice or magistrate, to be, by and at the expense of the managers of the school, brought back to the same school, there to be detained during a period equal to so much of his period of detention as remained unexpired at the time of his committing the offence.

If the child charged with such an offence is apparently above ten years of age, then on his summary conviction of the offence before two such justices or such a magistrate he shall be liable, at the discretion of the justices or magistrate, instead of being sent back to the same school, to be imprisoned with or without hard labour for any term not less than fourteen days and not exceeding three months, and the justices or magistrate before whom he is convicted may direct

(*s*) **Power to apprentice child.**—See further the Reformatory and Industrial Schools Act, 1891, *post*.

(*t*) **Reformatory Schools Act, 1866.**—*Ante*.

him to be sent at the expiration of the term of his imprisonment to a certified reformatory school, and to be there detained subject and according to the provisions of the Reformatory Schools Act, 1866.

**34.** If any person does any of the following things (*u*), that is to say—

First, knowingly assists, directly or indirectly, a child liable to be detained in a certified industrial school to escape from the school;

Second, directly or indirectly induces such a child so to escape;

Third, knowingly harbours or conceals a child who has so escaped, or prevents him from returning to school, or knowingly assists in so doing—

Every such person shall be guilty of an offence against this Act, and shall, on summary conviction thereof before two justices or a magistrate, be liable to a penalty not exceeding twenty pounds, or, at the discretion of the justices, to be imprisoned for any term not exceeding two months, with or without hard labour.

#### *Expenses of Children in Schools.*

**35.** The Treasury may from time to time contribute, out of money provided by Parliament for the purpose, such sums as the Secretary of State from time to time thinks fit to recommend towards the custody and maintenance of children detained in certified industrial schools; provided that such contributions shall not exceed two shillings per head per week for children detained on the application of their parents, step-parents, or guardians.

**36.** In England a *prison authority* (*x*) may contract with the managers of a certified industrial school for the reception and maintenance therein of such children as are from time to time ordered by justices to be sent there from the district of the prison authority.

**37.** The guardians of the poor of a union or parish, or the board of management of a district pauper school, or the parochial board of a parish or combination, may from time to time, with the consent in England of the Poor Law Board and in Scotland of the Board of Supervision, contribute such sums as they think fit towards the maintenance of children detained in a certified industrial school on their application.

**38.** [*Recovery of cost of maintenance in schools in Scotland, when parishes, &c., are liable.*]

**39.** The parent, step-parent, or other person for the time being legally liable to maintain a child detained in a certified industrial school shall, if of sufficient ability, contribute to his maintenance and training therein a sum not exceeding five shillings per week.

**40.** On the complaint of the inspector of industrial schools, or of any agent of the inspector, or of any constable under the directions of the inspector (with which directions every constable is hereby required to comply), at any time during the detention of a child in a certified industrial school, two justices or a magistrate having jurisdiction at the place where the parent, step-parent, or other person liable as aforesaid resides may, on summons to the parent, step-parent, or other person liable as aforesaid, examine into his ability to maintain the child, and may, if they or he think fit, make an order or decree on him for the payment to the inspector or his agent of such weekly sum, not exceeding five shillings per week, as to them or him seems reasonable, during the whole or any part of the time for which the child is liable to be detained in the school.

Every such order or decree may specify the time during which the payment is to be made, or may direct the payment to be made until further order.

In Scotland . . .

Every such payment or a proper proportionate part thereof shall go in relief of the charges on Her Majesty's Treasury, and the same shall be accounted for

29 & 30 Vict.  
c. 118.

29 & 30 Vict.  
c. 117.

Penalty on persons inducing offenders to escape from certified industrial schools.

Power to Treasury to contribute towards custody, &c. of children detained.

Power to prison authority to contract for reception of children in schools.

Power to guardians of poor, &c. to contribute.

Contribution by parent, &c.

Order for enforcement of contribution by parent, &c.

(*u*) **Following things.**—To these offences must be added a fourth, viz., assisting or inducing a child to escape from any person with whom such child is on licence, or preventing the child from returning to such person. Industrial Schools Acts Amend. Act, 1894, sec. 2, *post*.

(*x*) **Prison authority.**—Now the common council in the City, and the county council in the rest of London. See note to sec. 3 of the Reformatory Schools Act, 1866, *ante*.



29 & 30 Vict.  
c. 118.

as the Treasury direct, and where the amount of the payment ordered in respect of any child exceeds the amount contributed by the Treasury in respect of that child, the balance shall be accounted for and paid to the managers of the school.

The Secretary of State may, in his discretion, remit wholly or partially any payment so ordered.

Two justices or a magistrate having jurisdiction to make such an order or decree may from time to time vary any such order or decree as circumstances require, on the application either of the person on whom such order or decree is made, or of the inspector of industrial schools, or his agent, on fourteen days' notice being first given of such application to the inspector or agent, or to such person respectively.

*Discharge, &c. of Children from School.*

Detention to  
cease on  
child attaining  
sixteen.  
Transfer to  
another school  
by Secretary  
of State.

41. A person who has attained the age of sixteen years shall not be detained in a certified industrial school, except with his own consent in writing.

42. The Secretary of State may at any time order a child to be transferred from one certified industrial school to another, but so that the whole period of his detention be not thereby increased.

The Secretary of State may also at any time order a child being under sentence of detention in an industrial school established under any other Act of Parliament, the general rules for the government whereof have been approved by the Secretary of State, to be transferred to a certified industrial school under this Act; and in that case the child shall after the transfer be deemed to be subject in all respects to the provisions of this Act, but so that the whole period of his detention be not by such transfer increased.

The Treasury may pay, out of money provided by Parliament for the purpose, such sum as the Secretary of State thinks fit to recommend, in discharge of the expenses of the removal of any child transferred under the provisions of this Act.

Discharge by  
Secretary of  
State.

43. The Secretary of State may at any time order any child to be discharged from a certified industrial school or from any industrial school established under any other Act of Parliament, the general rules for the government whereof have been approved by the Secretary of State, either absolutely or on such condition as the Secretary of State approves, and the child shall be discharged accordingly.

*Withdrawal, &c. of Certificate of School.*

Power for  
Secretary of  
State to  
withdraw  
certificate.

44. The Secretary of State, if dissatisfied with the condition of a certified industrial school, may at any time, by notice under his hand addressed to and served on the managers thereof, declare that the certificate of the school is withdrawn as from a time specified in the notice, not being less than six months after the date thereof; and at that time the certificate shall be deemed to be withdrawn accordingly, and the school shall thereupon cease to be a certified industrial school.

Resignation  
of certificate  
by managers.

45. The managers or the executors or administrators of a deceased manager (if only one) of a certified industrial school may give notice in writing to the Secretary of State of their intention to resign the certificate of that school, and at the expiration in the case of managers of six months, and in the case of executors or administrators of one month, from the receipt of that notice by the Secretary of State (unless before that time the notice is withdrawn) the certificate shall be deemed to be resigned accordingly, and the school shall thereupon cease to be a certified industrial school.

Gazetting and  
evidence of  
withdrawal,  
&c.

46. A notice of the withdrawal or resignation of the certificate of a certified industrial school shall within one month be inserted by order of the Secretary of State in the London or in the Edinburgh Gazette, according as the school is in England or Scotland.

A copy of the Gazette containing such notice shall be conclusive evidence of such withdrawal or resignation.

A certificate shall be presumed to be in force until the withdrawal or resignation thereof is proved.

Cesser of  
reception of  
children on  
notice, &c.

47. Where notice is given of the withdrawal or resignation of the certificate of a certified industrial school no child shall be received into the school for detention under this Act after the receipt by the managers of the school of the notice

of withdrawal, or after the date of the notice of resignation, as the case may be ; but the obligation of the managers to teach, train, clothe, lodge, and feed any children detained in the school at the time of such receipt or at the date of such notice shall, except as far as the Secretary of State otherwise directs, be deemed to continue until the withdrawal or resignation of the certificate takes effect, or until the contribution out of money provided by Parliament towards the custody and maintenance of the children detained in the school is discontinued, which-ever shall first happen.

29 & 30 Vict.  
c. 118.

48. Where a school ceases to be a certified industrial school the children detained therein shall be either discharged or transferred to some other certified industrial school by order of the Secretary of State.

Discharge of  
children de-  
tained, &c.

49. [*Houses of refuge, &c. in Scotland.*]

50. [*Expenses of executing Act (y).*]

*Miscellaneous.*

51. The following Acts—

In England, the Summary Jurisdiction Act, 1848, and any Acts amending the same ;

In Scotland, the Summary Procedure Act, 1864—

Shall apply to all offences, payments, and orders in respect of which jurisdiction is given to justices or a magistrate by this Act, or which are by this Act directed to be prosecuted, enforced, or made in a summary manner or on summary conviction.

Acts regulating  
procedure.  
11 & 12 Vict.  
c. 43.

52. No summons, notice, or order made for the purpose of carrying into effect the provisions of this Act shall be invalidated for want of form only ; and the forms in the schedule to this Act annexed, or forms to the like effect, may be used in the cases to which they refer, with such variations as circumstances require, and when used shall be deemed sufficient.

Use of forms  
in schedule.

53. Any notice may be served on the managers of a certified industrial school by being delivered to any one of them personally, or being sent by post or otherwise in a letter addressed to them or any of them at the school, or at the usual or last known place of abode of any of the managers, or of their secretary.

Service of  
notices on  
managers.

54. This Act shall apply to all certified industrial schools being such at the passing of this Act . . .

Application  
of Act to  
existing cer-  
tified schools.

THE FIRST SCHEDULE.

[*Acts repealed.*]

THE SECOND SCHEDULE.

FORMS (z).

\* \* \* \* \*

REFORMATORY AND INDUSTRIAL SCHOOLS AMEND. ACT, 1872.

35 & 36 Vict. c. 21. An Act to amend the law relating to Reformatory and Industrial Schools. [27th June, 1872]

1. This Act may be cited as the Reformatory and Industrial Schools Acts Amendment Act, 1872. Short title.

2. This Act shall not extend to Scotland or Ireland. Extent of Act.

(y) **Expenses.**—This section is obsolete. The expenses incurred by the county council in executing the provisions of this Act are defrayed out of the special county rate. See Loc. Govt. Act, 1888, sec. 41 (3), and note thereto, *ante*, vol. i. The expenses incurred by the common council are defrayed out of the City's corporate funds and dues.

(z) **Forms.**—The forms are not set out, as they are not for the use of the local authorities.

35 & 36 Vict.  
c. 21.

## PART I.

## REFORMATORY SCHOOLS.

Interpretation.

3. This part of this Act shall be construed as one with the Reformatory Schools Act, 1866, and that Act and this part of this Act may be cited together as the Reformatory Schools Acts, 1866 and 1872.

Extension of  
power of  
prison autho-  
rity under  
29 & 30 Vict.  
c. 117, s. 28.

4. [*Recites the Reformatory Schools Act, 1866, sec. 28, ante, p. 1209.*] The said section shall extend to authorise a prison authority in England themselves to undertake anything towards which they are authorised by that section to contribute; and "The Reformatory Schools Act, 1866," shall be construed as if in the said section, so far as it relates to England, the expressions "contribute towards" and "contribution" included respectively "undertake" and "undertaking"; and the expenses of a prison authority in England incurred in pursuance of this section shall be defrayed accordingly.

Power to  
contribute  
towards ulti-  
mate disposal  
of inmates  
of certified  
reformatory  
schools.

5. A prison authority (a) in England may contribute towards the ultimate disposal of any inmate of a certified reformatory school established by such authority in pursuance of this part of this Act, and the expenses incurred by a prison authority in England in pursuance of this section shall be deemed to be expenses incurred by such authority in carrying into effect the provisions of the Reformatory Schools Act, 1866.

## PART II.

## INDUSTRIAL SCHOOLS.

Construction  
of part of Act.

6. This part of this Act shall be construed as one with "The Industrial Schools Act, 1866," and that Act and this part of this Act may be cited together as the Industrial Schools Acts, 1866 and 1872.

Extension of  
power of  
prison autho-  
rity under  
29 & 30 Vict.  
c. 118, s. 12.

7. [*Recital of the Industrial Schools Act, 1866, sec. 12, ante.*] The said section shall extend to authorise the prison authority themselves to undertake anything towards which they are authorised by that section to contribute; and "The Industrial Schools Act, 1866," shall be construed as if in the said section, so far as it relates to England, the expressions "contribute towards" and "contribution" included respectively "undertake" and "undertaking"; and the expenses of a prison authority in England incurred in pursuance of this section shall be defrayed accordingly.

Power to  
contribute  
towards ulti-  
mate disposal  
of inmates of  
certified  
industrial  
schools.

8. [*School boards in municipal boroughs inapplicable to London.*]

9. A prison authority (a) in England may contribute towards the ultimate disposal of any inmate of a certified industrial school established by such authority in pursuance of this part of this Act, and the expenses incurred by a prison authority in England in pursuance of this section shall be deemed to be expenses incurred by such authority in carrying into effect the provisions of the Industrial Schools Act, 1866.

## REFORMATORY AND INDUSTRIAL SCHOOLS ACT, 1891.

54 & 55 Vict. c. 23. An Act to assist the Managers of Reformatory and Industrial Schools in advantageously launching into useful Careers the Children under their Charge. [3rd July, 1891]

Power to  
apprentice  
or dispose  
of child.

1. If any youthful offender or child detained in or placed out on licence from a certified reformatory or industrial school conducts himself well, the managers of the school may, with his own consent, apprentice him to, or dispose of him in, any trade, calling, or service, or by emigration, notwithstanding that his period of detention has not expired, and such apprenticing or disposition shall be as valid as if the managers were his parents (b).

(a) **Prison authority.**—Now the common council in the City, and the county council in the rest of London. See note to sec. 3 of the Reformatory Schools Act, 1866, *ante*.

(b) **Apprenticeship of child.**—The provisions of this section extend the powers of apprenticing offenders and children conferred on the managers by the Reformatory Schools Act, 1866, sec. 19, *ante*, and the Industrial Schools Act, 1866, sec. 28, *ante*.



Provided that where he is to be disposed of by emigration, and in any case unless he has been detained for twelve months, the consent of the Secretary of State shall also be required for the exercise of any power under this section.

**2.** This Act may be cited as the Reformatory and Industrial Schools Act, 1891, and it shall not apply to Ireland.

54 & 55 Vict.  
c. 23.

Short title and  
extent of Act.

## INDUSTRIAL SCHOOLS ACTS AMENDMENT ACT, 1894.

**57 & 58 Vict. c. 33.** An Act to further amend the Industrial Schools Act, 1866. [17th August, 1894]

**1.—(1)** Every child sent to an industrial school after the passing of this Act shall, from the expiration of the period of his detention at such school, remain up to the age of eighteen under the supervision of the managers of the school.

(2) The managers may grant to any child under their supervision a licence in the manner provided by section twenty-seven of the Industrial Schools Act, 1866, and may revoke any such licence, and recall the child to the school; and any child so recalled may be detained in the school for a period not exceeding three months, and may at any time be again placed out on licence: Provided that—

(a) a child shall not be so recalled unless the managers are of opinion that the recall is necessary for the protection of the child; and

(b) the managers shall send to the Secretary of State an immediate notification of the recall of any child, and shall state the reasons for the recall; and

(c) they shall again place the child out as soon as possible, and at latest within three months after the recall, and shall forthwith notify the Secretary of State that the child has been placed out.

(3) A licence granted to a child within three months before attaining the age of sixteen shall continue in force after the child attains that age, and may be revoked or renewed in the manner provided by section twenty-seven of the Industrial Schools Act, 1866.

**2.** Section thirty-four of the Industrial Schools Act, 1866, shall be read and construed as if after the three offences therein severally specified there were added the following offence; namely—

**FOURTH.**—Knowingly assists or induces, directly or indirectly, a child placed on licence to escape from any person with whom the child is so placed on licence, or prevents the child from returning to any person aforesaid.

**3.** Any child detained in an industrial school at the passing of this Act may consent in writing to come under the provisions of this Act, and thereupon the Secretary of State, if satisfied that the consent was given voluntarily, and with full knowledge of its effect, may order that the provisions of this Act shall apply to the child, and they shall apply accordingly.

**4.** Nothing in this Act shall apply to any child committed to an industrial school under the Elementary Education Acts, 1870 to 1893.

**5.** This Act may be cited for all purposes as the Industrial Schools Acts Amendment Act, 1894, and shall be construed as one with the Industrial Schools Act, 1866, and that Act and this Act may be cited together as the Industrial Schools Acts, 1866 and 1894.

Supervision  
of children  
after discharge  
from industrial  
schools.  
29 & 30 Vict.  
c. 118.

Penalty for  
inducing child  
placed on  
licence to  
escape, &c.

Provision as  
to children  
detained under  
existing  
orders.

Saving for  
children  
detained under  
attendance  
order.

Short title and  
construction.

## SCIENCE AND ART.

6 & 7 Vict. c. 36 ("Scientific Societies Act, 1843").....page 1222  
 54 & 55 Vict. c. 61 ("Schools for Science and Art Act, 1891") ..... 1223

SCIENTIFIC SOCIETIES ACT, 1843 (*a*).

6 & 7 Vict. c. 36. An Act to exempt from County, Borough, Parochial, and other local Rates, Land and Buildings occupied by Scientific or Literary Societies. [28th July, 1843]

Scientific societies exempted from rates upon obtaining the certificate hereinafter mentioned.

... 1. From and after the first day of October one thousand eight hundred and forty-three no person or persons shall be assessed or rated, or liable to be assessed or rated, or liable to pay, to any county, borough, parochial, or other local rates or cesses, in respect of any land, houses, or buildings, or parts of houses or buildings belonging to any society instituted for purposes of science, literature, or the fine arts exclusively, either as tenant or as owner, and occupied by it for the transaction of its business, and for carrying into effect its purposes, provided that such society shall be supported wholly or in part by annual voluntary contributions (*b*), and shall not, and by its laws may not, make any dividend, gift, division, or bonus in money unto or between any of its members, and provided also that such society shall obtain the certificate of the barrister at law or Lord Advocate, as hereinafter mentioned.

Scientific societies to cause three copies of their rules of management to be submitted to the barrister or person appointed to certify the rules of friendly societies, who shall certify thereon if entitled.

2. Provided always, that before any society shall be entitled to the benefit of this Act such society shall cause three copies of all laws, rules, and regulations for the management thereof, signed by the president or other chief officer and three members of the council or committee of management, and countersigned by the clerk or secretary of such society, to be submitted, in England, . . . to the barrister at law for the time being appointed to certify the rules of friendly societies there, . . . for the purpose of ascertaining whether such society is entitled to the benefit of this Act; and such barrister or Lord Advocate, as the case may be, shall give a certificate on each of the said copies that the society so applying is entitled to the benefit of this Act, or shall state in writing the grounds on which such certificate is withheld; and one of such copies, when certified by such barrister . . . shall be returned to the society, another copy shall be retained by such barrister . . . and the other of such copies shall be transmitted by such barrister . . . to the clerk of the peace (*c*) for . . . the county where the land or buildings of such society in respect of which such exemption is claimed shall be situated, and shall by him be laid before the . . . justices for such . . . county at the general quarter sessions (*d*), or adjournment thereof, held next after the time when such copy shall have been so certified, and transmitted to him as aforesaid, and the . . . justices then and there present are hereby authorised and required, without motion, to allow and confirm the same; and such copy shall be filed by such clerk of the peace (*c*), with the rolls of the sessions of the peace in his custody, without fee or reward.

One certified copy to be returned to the society; one to be retained by the barrister; and the other transmitted to the clerk of the county council for confirmation at sessions, and to be deposited. Certain alterations made in the rules to be certified and

3. If the laws, rules, and regulations of any such society shall be altered, so as to affect or relate to the property or constitution of such society, such alterations

(*a*) **Short title and application of Act.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 36). The duty of registering the rules of scientific societies under this Act is transferred from quarter sessions to the county council by the Loc. Govt. Act, 1888, sec. 3 (*xv*), *ante*.

(*b*) **Voluntary contributions.**—A society of which the membership is confined to annual subscribers, and of which the funds are raised by the subscriptions, and which distributes amongst its members works of art equal in value to the amounts subscribed, but does not make any "dividend, gift, division, or bonus in money," although a society "instituted for the purposes of the fine arts exclusively," is not a society "supported wholly or in part by annual voluntary contributions," and is therefore not entitled to exemption from rating. "Voluntary" does not mean "not compulsory." It means "gratuitous," without any money or other moral consideration. *Savoy Overseers v. Art Union of London* (1896), A. C. 296; 65 L. J. M. C. 161; and see cases there cited.

(*c*) **Clerk of the peace.**—Now the clerk of the county council. See note (*a*), *supra*.

(*d*) **Justices at quarter sessions.**—Now the county council. See note (*a*), *supra*.

shall, within one calendar month after the same shall have been made, be submitted to such barrister . . . , and such barrister . . . shall certify as aforesaid; and such rules, when so certified, shall be filed with the *clerk of the peace* (e) as aforesaid; and in the meantime such society shall be entitled to the benefit of this Act, as if no such alterations had been made: Provided always, that if the said barrister . . . shall refuse to certify, that then, subject to such appeal as is hereinafter provided, the said society shall cease to be entitled to the benefit of this Act from the time when such alterations shall come into operation.

4. Provided always, that the fee payable to such barrister . . . for perusing the laws, rules, and regulations of each society, or the alterations made therein, and giving such certificate or statement as aforesaid, shall not at any one time exceed the sum of one guinea, which, together with the expense of transmitting the rules to and from the said barrister . . . shall be defrayed by each society respectively.

5. Provided always, that in case any such barrister . . . shall refuse to certify that any such society is entitled to the benefit of this Act, it shall then be lawful for any such society to submit the laws, rules, and regulations thereof to the *court of quarter sessions* (f) for the . . . county where the land or buildings of the society shall be situated, together with the reasons so assigned by the said barrister . . . as aforesaid; and the . . . justices at such *quarter sessions* (f) shall and may, if he or they think fit, order the same rules to be filed, notwithstanding such refusal as aforesaid; and such filing shall have the same effect as if the said barrister . . . had certified as aforesaid.

6. Provided also, that any person or persons assessed to any rate from which any society shall be exempted by this Act may appeal from the decision of the said barrister . . . in granting such certificate as aforesaid to the said court of quarter sessions, within four calendar months next after the first assessment of such rate made after such certificate shall have been filed as aforesaid, or within four calendar months next after the first assessment of such rate made after such exemption shall have been claimed by such society, such appellant first giving to the clerk or secretary of the society in question, twenty-one days previously to the sitting of the said court, notice in writing of his intention to bring such appeal, together with a statement in writing of the grounds thereof, and within four days after such notice entering into a recognizance before some justice, with two sufficient sureties, to try such appeal at and abide the order of and pay such costs as shall be awarded by the recorder or justices at such quarter sessions; and at such quarter sessions such recorder or justices shall, on its being proved that such notice and statement have been given as aforesaid, proceed to hear such appeal, according to the grounds set forth in such statement, and not otherwise, and, if the certificate of the said barrister . . . shall appear to him or them to have been granted contrary to the provisions of this Act, shall and may annul the same, and shall and may, according to their discretion, award such costs to the party appealing or appealed against as he or they shall think proper, and his or their determination concerning the premises shall be conclusive and binding on all parties to all intents and purposes whatsoever.

6 & 7 Vict.  
c. 36.

deposited in  
like manner.  
In case of  
refusal to  
certify.

Fee to be  
paid to the  
barrister or  
Lord Advocate.

Provision  
in cases where  
certificate is  
refused.

Appeal to  
quarter  
sessions.

## SCHOOLS FOR SCIENCE AND ART ACT, 1891.

54 & 55 Vict. c. 61. An Act to facilitate the transfer of Schools for Science and Art to Local Authorities. [5th August, 1891]

1.—(1) The managers of any school for science and art, or for science or for art, or of any institution to which the Literary and Scientific Institutions Act, 1854, applies (g), may make an arrangement with any local

Transfer of  
school for  
science and  
art or literary  
or scientific  
institution to  
local authority.  
17 & 18 Vict.  
c. 112.

(e) *Clerk of the peace*.—See note (e) on page 1222.

(f) *Justices at quarter sessions*.—See note (d) on page 1222.

(g) *The Literary and Scientific Institutions Act, 1854*, applies to every institution established for the promotion of science, literature, the fine arts, for adult instruction, the diffusion of useful knowledge, the foundation or maintenance of libraries or reading rooms for general use among the members or open to the public, of public museums and galleries of paintings and other works of art, collections of natural



54 & 55 Vict.  
c. 61.

52 & 53 Vict.  
c. 76.

33 & 34 Vict.  
c. 75.

authority (*h*) within the meaning of the Technical Instruction Act, 1889, for transferring the school or institution to that authority, and the local authority may assent to any such arrangement and give effect thereto, subject to the provisions of that Act.

(2) The provisions of section twenty-three of the Elementary Education Act, 1870 (*i*), with respect to arrangements for the transfer of schools, shall apply in the case of arrangements for the transfer of schools or institutions in pursuance of this section, with this modification, that for the purposes of transfers to a local authority references to the school board shall be construed as references

history, mechanical and philosophical inventions, instruments, or designs; excepting the Royal Institution and the London Institution for the Advancement of Literature and the Diffusion of Useful Knowledge. *Ib.*, sec. 33.

(*h*) **Local authority**, i.e., in London, the county council. Technical Instruction Act, 1889, sec. 4, *post*.

(*i*) **The Elementary Education Act, 1870**, sec. 23, enacts as follows:—"The managers of any elementary school in the district of a board school may, in manner provided by this Act, make an arrangement with the school board for transferring their school to such school board, and the school board may assent to such arrangement.

An arrangement under this section may be made by the managers by a resolution or other act as follows (that is to say):

- (1) Where there is any instrument declaring the trusts of the school, and such instrument provides any manner in which or any assent with which a resolution or act binding the managers is to be passed or done, then in accordance with the provisions of such instrument:
- (2) Where there is no such instrument, or such instrument contains no such provisions, then in the manner and with the assent, if any, in and with which it may be shown to the Education Department to have been usual for a resolution or act binding such managers to be passed or done:
- (3) If no manner or assent can be shown to have been usual, then by a resolution passed by a majority of not less than two thirds of those members of their body who are present at a meeting of the body summoned for the purpose, and vote on the question, and with the assent of any other person whose assent under the circumstances appears to the Education Department to be requisite.

And in every case such arrangement shall be made only--

- (1) With the consent of the Education Department; and
- (2) If there are annual subscribers to such school, with the consent of a majority, not being less than two-thirds in number, of those of the annual subscribers who are present at a meeting duly summoned for the purpose, and vote on the question.

Provided that where there is any instrument declaring the trusts of the school, and such instrument contains any provision for the alienation of the school by any persons or in any manner or subject to any consent, any arrangement under this section shall be made by the persons in the manner and with the consent so provided.

Where it appears to the Education Department that there is any trustee of the school who is not a manager, they shall cause the managers to serve on such trustee, if his name and address are known, such notice as the Education Department think sufficient; and the Education Department shall consider and have due regard to any objections and representations he may make respecting the proposed transfer.

The Education Department shall consider and have due regard to any objections and representations respecting the proposed transfer which may be made by any person who has contributed to the establishment of such school. After the expiration of six months from the date of transfer the consent of the Education Department shall be conclusive evidence that the arrangement has been made in conformity with this section.

An arrangement under this section may provide for the absolute conveyance to the school board of all the interest in the school house possessed by the managers or by any person who is trustee for them or for the school, or for the lease of the same, with or without any restrictions, and either at a nominal rent or otherwise, to the school board, or for the use by the school board of the school house during part of the week, and for the use of the same by the managers or some other person during the remainder of the week, or for any arrangement that may be agreed on. The arrangement may also provide for the transfer or application of any endowment belonging to the school, or for the school board undertaking to discharge any debt charged on the school not exceeding the value of the interest in the school house or endowment transferred to them. When an arrangement is made under this section the managers may, whether the legal interest in the school house or endowment is vested in them or in some person as trustee for them or the school, convey to the school board all such interest in the school house and endowment as is vested in them or in such trustee, or such

to the local authority and references to the Education Department as references to the Department of Science and Art, and references to a school shall, in the case of an institution not being a school, be construed as references to the institution. 54 & 55 Vict. c. 61.

(3) In this section the expression "managers" includes all persons who have the management of any school or institution, whether the legal interest in the site and buildings of the school or institution is or is not vested in them.

2. [*Short title: The Schools for Science and Art Act, 1891.*]

smaller interest as may be required under the arrangement. Nothing in this section shall authorise the managers to transfer any property which is not vested in them, or a trustee for them, or held in trust for the school; and where any person has any right given him by the trusts of the school to use the school for any particular purpose independently of such managers, nothing in this section shall authorise any interference with such right except with the consent of such person.

Every school so transferred shall, to such extent and during such times as the school board have under such arrangement any control over the school, be deemed to be a school provided by the school board."

## SHOP HOURS.

|                                                        |               |
|--------------------------------------------------------|---------------|
| 55 & 56 Vict. c. 62 ( " Shop Hours Act, 1892 " ) ..... | page 1226     |
| 56 & 57 Vict. c. 67 ( " Shop Hours Act, 1893 " ) ..... | 1228          |
| 58 Vict. c. 5 ( " Shop Hours Act, 1895 " ) .....       | note (c) 1226 |

## SHOP HOURS ACT, 1892.

55 & 56 Vict. c. 62. An Act to amend the Law relating to the Employment of Young Persons in Shops. [28th June, 1892]

- Short title. 1. This Act may be cited as the Shop Hours Act, 1892.
- Hours of employment in shops. 2. [Commencement of Act : September 1st, 1892.]
- 41 & 42 Vict. c. 16. 3.—(1) No young person shall be employed in or about a shop for a longer period than seventy-four hours, including meal times, in any one week.
- Notice of hours to be given. (2) No young person shall to the knowledge of his employer be employed in or about a shop (a) having been previously on the same day employed in any factory or workshop, as defined by the Factory and Workshop Act, 1878 (b), for the number of hours permitted by the said Act or for a longer period than will together with the time during which he has been so previously employed complete such number of hours.
- Fine for employing persons contrary to the Act. 4. In every shop in which a young person is employed a notice shall be kept exhibited by the employer in a conspicuous place referring to the provisions of this Act and stating the number of hours in the week during which a young person may lawfully be employed in that shop (c).
- Power of occupier to exempt himself from fine on conviction of actual offender. 5. Where any young person is employed in or about a shop contrary to the provisions of this Act, the employer shall be liable to a fine not exceeding one pound for each person so employed.
- Summary proceedings. 6. Where the employer of any young person is charged with an offence against this Act, he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the said employer proves to the satisfaction of the court that he has used due diligence to enforce the execution of the Act, and the said other person has committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the occupier shall be exempt from any fine.
- Appointment of inspectors. 7. All offences under this Act shall be prosecuted, and all fines under this Act shall be recovered, in like manner as offences and fines are prosecuted and recovered under the Factory and Workshop Act, 1878, and sections eighty-eight, eighty-nine, ninety, and ninety-one of the said Act, and so much of section ninety-two thereof as relates to evidence respecting the age of any person (d).
8. The council of any county or borough, and in the City of London the common council, may appoint such inspectors as they may think necessary for the execution of this Act within the areas of their respective jurisdictions, and sections sixty-eight and seventy of the Factory and Workshop Act, 1878 (e), shall
- (a) **In or about a shop.**—Where a newsagent employed a boy whose work was done partly inside the agent's shop and partly away in fetching and delivering newspapers it was held that the whole employment was "in or about a shop" within the meaning of the Act. *Collman v. Roberts* (1896), 1 Q. B. 457; 65 L. J. M. C. 63.
- (b) **Factory or workshop.**—See the Factory and Workshop Act, 1878, sec. 93, for the definition of these terms, *ante*, tit. "Factories," &c.
- (c) **Notice of hours. Penalty.**—"If any employer fails to keep exhibited the notice required by sec. 4 of the Shop Hours Act, 1892, in manner required by that section, he shall be liable to a fine not exceeding forty shillings." Shop Hours Act, 1895 (58 Vict. c. 5).
- (d) **Factory and Workshop Act, 1878.**—See secs. 88—92, *ante*, tit. "Factories," &c.
- (e) **Inspectors.**—The following are the sections of the Factory and Workshop Act, 1878, referred to in sec. 8, *supra* :—
- "68. An inspector under this Act shall for the purpose of the execution of this Act have power to do all or any of the following things; namely,
- (1) To enter, inspect, and examine at all reasonable times by day and night a factory



apply in the case of any such inspector as if he were appointed under that Act, and as if the expression workshop as used in those sections included any shop within the meaning of this Act.

55 & 56 Vict.  
c. 62.

\* \* \* \* \*

9. In this Act, unless the context otherwise requires—

“Shop” means retail and wholesale shops, markets, stalls, and warehouses in which assistants are employed for hire, and includes licensed public-houses and refreshment houses of any kind :

Interpretation.

and a workshop and every part thereof when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory or workshop ; and

- (2) To take with him in either case a constable into a factory in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty ; and
- (3) To require the production of the registers, certificates, notices, and documents kept in pursuance of this Act, and to inspect, examine, and copy the same ; and
- (4) To make such examination and inquiry as may be necessary to ascertain whether the enactments for the time being in force relating to public health and the enactments of this Act are complied with, so far as respects the factory or workshop and the persons employed therein ; and
- (5) To enter any school in which he has reasonable cause to believe that children employed in a factory or workshop are for the time being educated ; and
- (6) To examine either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in a factory or workshop, or such a school as aforesaid, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or workshop, and to require such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined ; and
- (7) To exercise such other powers as may be necessary for carrying this Act into effect.

The occupier of every factory and workshop, his agents and servants, shall furnish the means required by an inspector as necessary for an entry, inspection, examination, inquiry, or the exercise of his powers under this Act in relation to such factory and workshop.

Every person who wilfully delays an inspector in the exercise of any power under this section, or who fails to comply with a requisition of an inspector in pursuance of this section, or to produce any certificate or document which he is required by or in pursuance of this Act to produce, or who conceals or prevents a child, young person, or woman from appearing before or being examined by an inspector, or attempts to conceal or prevent a child, young person, or woman, shall be deemed to obstruct an inspector in the execution of his duties under this Act : Provided always, that no one shall be required under this section to answer any question or to give any evidence tending to criminate himself.

Where an inspector is obstructed in the execution of his duties under this Act the person obstructing him shall be liable to a fine not exceeding five pounds, and where an inspector is so obstructed in a factory or workshop the occupier of that factory or workshop shall be liable to a fine not exceeding five pounds, or where the offence is committed at night, twenty pounds ; and where an inspector is so obstructed in a factory or workshop within the meaning of section sixteen of this Act” [i.e., where persons are employed at home in a private house, room, or place, which, though used as a dwelling-house, is by reason of the work carried on there a workshop within the meaning of the Act], “the occupier shall be liable to a fine not exceeding one, or where the offence is committed at night, five pounds.”

“70. Every inspector under this Act shall be furnished with the prescribed certificate of his appointment, and, on applying for admission to a factory or workshop shall, if required, produce to the occupier the said certificate.

Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or personates the inspector named in any such certificate, or falsely pretends to be an inspector under this Act, shall be liable to be imprisoned for a period not exceeding three months, with or without hard labour.”

The following is prescribed by order of the Home Secretary, dated 21st Apl., 1893, as the form of certificate under the present Act :—

“Shop Hours Act, 1892.

I hereby certify that *A.B.* has been appointed an inspector for the purposes of the above-mentioned Act, for the City of London [or county of London].

{ The Lord Mayor of the City of London,  
or  
{ Chairman of the County Council of

day of 18 .”

55 & 56 Vict.  
c. 62.

41 & 42 Vict.  
c. 16.

Exemption  
of members  
of the same  
family, and  
servants.

“Young person” means a person under the age of eighteen years :

Other words and expressions have the same meanings respectively as in the  
Factory and Workshop Act, 1878 (*f*).

10. Nothing in this Act shall apply to a shop where the only persons employed  
are members of the same family, dwelling in the building of which the shop  
forms part or to which the shop is attached, or to members of the employer's  
family so dwelling, or to any person wholly employed as a domestic servant.

### SHOP HOURS ACT, 1893.

**56 & 57 Vict. c. 67.** An Act to amend the Shop Hours Act, 1892.

[21st December, 1893]

Short title.

1. This Act may be cited as the Shop Hours Act, 1893, and this Act and the  
Shop Hours Act, 1892, may be cited together as the Shop Hours Acts, 1892 and  
1893.

Salaries and  
expenses.

2.—(1) Any salaries payable or other expenses incurred by the council of a  
county or a borough for the purposes of the Shop Hours Act, 1892, shall be  
defrayed by the council of a county out of the county fund, and by the council  
of a borough out of the borough fund or borough rate.

(2) In Ireland . . .

3. [*Application to Scotland of Shop Hours Act, 1892, and of this Act.*]

(*f*) **Interpretation.**—See the Factory and Workshop Act, 1878, secs. 93, 94, and 96,  
*ante*, tit. “*Factories*,” &c.

## SUBWAYS.

|                                                                              |      |
|------------------------------------------------------------------------------|------|
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## METROPOLITAN SUBWAYS ACT, 1868.

31 & 32 Vict. ch. lxxx. An Act to make Provision respecting the Use of Subways constructed by the *Metropolitan Board of Works in the Metropolis* (c). [25th June, 1868]

## [Preamble.]

1. This Act may be cited as "The Metropolitan Subways Act, 1868." Short title.
2. In this Act the term "subway" means an arched passage or covered way under the surface of a street constructed for the reception of gas, water, and other pipes; the term "street" has the same meaning as it has in "The Metropolis Management Act, 1855" (a), and shall include any roadway on any embankment or land reclaimed from the river Thames or connected therewith; the term "pipe" includes gas pipe, water pipe, tube for telegraph wires or other tube, and any apparatus connected with a pipe or tube; the expression "the Metropolis" means the Metropolis as defined by "The Metropolis Management Amendment Act, 1862" (b). Interpretation of terms.
3. This Act shall apply only to the several subways under any street constructed under the powers of the respective Acts set forth in the schedule to this Act annexed. Extent of Act.
4. Where any company, body, or person is desirous of laying or may be required to lay any pipe under the surface of any street under which there is a subway to which this Act applies, and the *board* (c), by notice served on such company, body, or person, requires them or him to lay the same in the subway, then, notwithstanding anything in any special or general Act of Parliament contained, it shall not be lawful for such company, body, or person to lay the same under the surface of the street otherwise than in the subway, or after the service of such notice to open or break up the street for that purpose. As to new pipes.  
Power for county council to require companies, &c. to use subways.
5. If any company, body, or person lays a pipe or opens or breaks up a street in any respect in contravention of the foregoing provision, they or he shall for every such offence (without prejudice to any other remedy or proceeding against them or him) be liable to a penalty not exceeding twenty pounds; and the *board* (c) (whether having the control or management of the surface and soil of the street or not), if they think fit, may remove the pipe so laid, and may fill in the ground and make good the surface and pavement of the street so opened or broken up, and the expenses incurred by the *board* (c) in so doing shall be repaid, on demand, to the board by such company, body, or person, and in default of payment may be recovered as a penalty is under this Act recoverable. Remedies against companies, &c. violating foregoing provisions.
6. Where the *board* (c) has before or after the passing of this Act constructed a subway under any street to which this Act applies, and a pipe has been laid under the surface of the street otherwise than in the subway, the board may, by notice served on the company, body, or person to whom such pipe belongs, require them or him to remove the same into the subway, and the cost of such removal shall be defrayed by the *board* (c); and if any difference arise as to the reasonable amount of such cost, the same shall be settled by an arbitrator to be appointed by the Board of Trade on the application of either party, and the cost of the reference shall be in the discretion of the arbitrator; and if default be made by the company in the removal of any such pipe, the *board* (c), whether As to existing pipes in streets in which there is a subway.

(a) *Street* is defined by the Metrop. Man. Act, 1855, sec. 250, and the Metrop. Man. Amend. Act, 1862, sec. 112, *ante*, vol. i.

(b) *Metropolis* is defined by sec. 112 of the Metrop. Man. Amend. Act, 1862, *ante*, vol. i.

(c) *Met. Bd. Wks.*—Now the London County Council. Loc. Govt. Act. 1888, sec. 40 (8), *ante*.



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ch. lxxx.

having the control or management of the surface and soil of the street or not, if they think fit, may take up the pipe in respect of which default is made, and may remove the same into the subway, and if it be necessary for the purpose of such removal to substitute new pipes for the existing pipes in the street, the arbitrator may apportion the cost of such substitution between the *board* (d) and the company, body, or person, if he considers the company, body, or person derive any benefit from the substitution.

Right of all  
companies,  
&c. to use  
subways.  
Pipes to be  
maintained by  
companies, &c.

7. This *board* (d) shall, so far as space will admit, and without favour or preference, allow pipes to be laid in a subway.

8. All pipes placed in the subways shall be maintained by the companies, bodies, or persons to whom the same belong, under the supervision of an officer appointed by the *board* (d), and the subways shall be maintained by the *board* (d) in an efficient state of ventilation and repair, and free from water and other obstruction in the way of the companies, bodies, and persons using the same.

As to super-  
vision.

9. The supervision of the pipes and the general supervision of the subways to be provided by the *board* (d) shall be in such manner and upon such terms, pecuniary and otherwise, as may be agreed upon between the board and the company, body, and person using the subway, and, in case of difference, the manner and terms of such supervision shall be determined by the Board of Trade, or by an arbitrator appointed by that board, on the application of either party, and the costs of the reference shall be in the discretion of the arbitrator, and each party shall do all acts necessary to give effect to such arbitration.

Application  
to this Act of  
powers, &c.  
of Local  
Management  
Act, &c.

See sec. 202  
and following  
sections of the  
Local Manage-  
ment Act,  
1855.

No byelaws  
to come into  
operation  
until allowed  
by the Board  
of Trade.

10. For the purposes and in the execution of this Act, the *board* (d) shall have and may exercise all such powers, privileges, and authorities as are conferred on the *board* (d) by the Acts constituting and regulating the *board* (d), and as far as may be the provisions of those Acts shall apply for the purposes and in the execution of this Act, and in particular the provisions of those Acts relative to byelaws shall extend to empower the *board* (d) to make, alter, and repeal byelaws for regulating the use of subways constructed by the *board* (d) before or after the passing of this Act, and of the communications therewith; and penalties under this Act shall be recoverable and applicable as penalties under the said Acts are recoverable and applicable.

11. No byelaws made under the authority of this Act shall come into operation until the same be allowed by the Board of Trade, and twenty-one days' notice of the intention to apply to the Board of Trade for the allowance of such byelaws shall be given to the gas and water companies supplying gas and water in the districts in which the subways to which such byelaws relate shall be situate; and the Board of Trade may allow, disallow, or alter any such byelaws as they think proper.

Expenses of  
Act.

12. The costs, charges, and expenses of and incidental and preliminary to the obtaining and passing of this Act, and incurred by the board in relation thereto, and of carrying the same into effect, shall be paid by the *board* (d) out of the funds which they may raise within the Metropolis, as defined by "The Metropolis Management Amendment Act, 1862," under the powers and provisions of "The Metropolis Management Act, 1855," and the Acts amending the same.

The SCHEDULE to which the foregoing Act refers.

Acts authorising the Making, by the Metropolitan Board of Works, of new Streets and Roadways.

1. Covent Garden Approach and Southwark and Westminster Communication Act, 1857.
2. Victoria Park Approach Act, 1858.
3. The Thames Embankment Act, 1862.
4. The Thames Embankment Act, 1863.
5. The Metropolis Improvement Act, 1863.
6. The Thames Embankment Act, 1864.
7. The Whitechapel and Holborn Improvement Act, 1865.

(d) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*.

## LONDON COUNTY COUNCIL (SUBWAYS) ACT, 1893.

56 & 57 Vict. ch. ccii. An Act to confer further powers on the London County Council with respect to their existing subways.

[24th August, 1893]

[Preamble.]

1. This Act may be cited for all purposes as the London County Council (Subways) Act, 1893. Short title.

2. In this Act—

The expression “the council” means the London County Council;

The expression “the county” means the administrative county of London;

The expression “the company” means and includes any company, body, or person having any power of opening or breaking up a street in the county for laying any pipe or wire except the commissioners of sewers of the City of London and a vestry or district board of works constituted and acting under the Metropolis Management Act, 1855, and the Acts amending the same;

The expression “subway” means an arched passage or covered way existing at the passing of this Act and belonging to the council under the surface of a street, which passage or way is adapted for the reception of and affording convenient access to pipes and wires placed therein;

The expression “street” has the meaning assigned thereto in the Metropolis Management Act, 1855, and the Metropolis Management Act, 1862 (e);

The expression “pipe” includes any pipe, main, valve, tube, or channel which may be laid in or under any street by the company;

The expression “wire” includes any wire, conductor, or cable, and any attachment thereto or covering or protection thereof, any part of which is placed or may be placed under any street or any part of any street by the company;

The expression “telegraphic line” has the same meaning as in the Telegraph Act, 1878.

Interpretation.

3. The company (without the consent of the council) shall not in a street where there is a subway interfere with the surface of the street for the purpose of laying or renewing a pipe other than a communication or supply pipe unless they shall have given seven days’ notice in writing to the council of their intention so to do, and the council may at any time within the said period of seven days by notice under the hand of their engineer require the company to lay such pipe in such subway.

Removal of pipes and wires into subway.

Where the council have a subway in any street it shall be lawful for the council at any time by notice in writing to require the company to remove into such subway any then existing pipes or wires of the company in the street for the reception of which such subway shall be convenient: Provided that where pipes for the supply of water or gas are required to be removed provision shall be made for the continuance of the supply during such removal, unless with the consent of the person entitled to the supply.

The reasonable cost of such removal (including the cost involved in removing or altering communications between the pipe or wire removed and any house or building and the cost of providing for the continuance of any supply of water or gas during such removal) shall be defrayed by the council, and if any difference arise as to the reasonable amount of such cost the same shall be settled by an arbitrator.

If default be made by the company in the removal of any such pipe or wire the council, whether having the control or management of the surface and soil of the street or not, may, if they think fit, take up the pipe or wire in respect of which default is made, and may remove the same into the subway, and if it be necessary for the purpose of such removal to substitute new pipes for any existing pipes in the street the arbitrator may apportion the cost of such substitution between the council and the company if he considers the company derive any benefit from the substitution.

(c) **Street** is defined by the Metrop. Man. Act, 1855, sec. 250, and the Metrop. Man. Amend. Act, 1862, sec. 112, *ante*, vol. i.

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ch. ccii.

As to removal  
of pipes or  
wires into  
subway under  
this Act.

4. If under the powers of this Act the council cause any pipe or wire to be removed into any part of any subway over or near to the Metropolitan District Railway they shall not cause such pipe or wire to be placed in the subway in such a manner and position as may have the effect of disturbing or interfering with the action of any electric circuits from time to time used or intended to be used on or in connection with that railway for the purposes of telegraphic or telephonic communication or for electric signalling.

The council shall be responsible for and make good to the Metropolitan District Railway Company all costs, losses, damages, and expenses which may be occasioned to the said railway company in consequence of any works or proceedings of the council, or the construction, use, breakage, leakage, or failure of any pipes or wires for the time being placed in the subway caused by the council or their officers, servants, or workmen, and shall effectually indemnify and hold harmless the said railway company from all claims and demands upon or against them by reason of such works, or proceedings, or such construction, use, breakage, leakage, or failure.

Charge for use  
of subway.

5. It shall be lawful for the council to make on the company using any subway a charge for the use of the subway and the supervision of such subway, and the pipes and wires therein, according to a scale to be determined as herein-after provided, and until such scale is so determined the amount of such charge (if not agreed between the council and the company using the subway) shall be determined by an arbitrator: Provided that, in the determination of such scale or of the amount of any such charge in the case of any water or gas company having statutory powers to break up streets, regard shall be had only to such saving (if any) as may result to such company by reason of the pipe being laid and accessible in a subway instead of being laid or remaining under a street, and to any other saving resulting to such company by reason of the subway and to the cost of management and supervision of the subway and the pipes therein.

Cesser of  
powers to  
break up  
streets.

6. Where the council have a subway in any street, and so long as any such subway shall continue adapted for the reception of pipes and wires, all power of the company for breaking up or interfering with the surface of the street beneath which the subway is made shall cease and determine, except so far as may be necessary for any of the following purposes:—

- (a) For removing pipes or wires into the subway;
- (b) For laying pipes and wires across the street from intersecting or side streets in which no subways exist, or in connection with valves, works, or appliances which for the purpose of regulating mains laid in subways may be brought to the surface of the street;
- (c) For obtaining access to pipes or wires already laid or placed in the street but which the council shall not have required the company to move into a subway;
- (d) For forming connections between any pipes or wires in the subway and any house or building in the street, or any public lamps, so far as such connections cannot be formed through openings in the subway:

Any difference which may arise between the council and the company under this section shall be referred to an arbitrator.

Maintenance  
of pipes and  
subway.

7. Every pipe and wire placed in any subway shall be maintained and kept in proper condition and repair by and at the expense of the company to whom it belongs under the supervision of the officer to be appointed for that purpose by the council. If the company fail at any time to keep any such pipe or wire in proper condition and repair it shall be lawful for the council to place the same in proper condition and repair and execute any works which may be necessary for that purpose, and the amount of any costs and expenses to which the council may be put in connection with any such work shall be repaid on demand by the company to whom the pipe or wire belongs, and in default of such payment may be recovered by the council in a summary way. Every subway shall be maintained and kept in proper condition and repair by the council with efficient means of ventilation and free from water and other obstructions in the way of the company.

Superintendent  
of subways and  
other officers.

8. It shall be lawful for the council to appoint and employ a superintendent of subways and such other officers and servants as they may find requisite for any of the purposes of this Act relative to subways.



9. Where the company is required under the powers of this Act to remove any wire or any part of a wire into a subway it shall be lawful for the company to open up any portion of street for the purpose of conveniently passing such wire into and out of the subway, and of connecting it with any other wire of the company:

But any such interference shall be effected only in such manner and subject to and in accordance with such terms and conditions as in default of agreement between the company and the authority in whom the control of the street is vested shall be determined by an arbitrator, who shall be appointed by the Board of Trade on the application of such authority or the company to whom the question refers.

10. The council may from time to time make, vary, and enforce byelaws with respect to any of the following matters (f):—

The position and manner in which pipes and wires shall be placed in subways and the method in which they shall be brought into and taken out of subways;

The manner in which any repairs or alterations in any such pipes and wires may be made;

The control and regulation of persons resorting to any such subway and of all persons fixing or altering any pipe or wire therein;

The access to subways by officers and servants of the company and other persons;

The prohibition of any interference with any means of access to any subway;

The preparation, deposit, and correction of maps, plans, and particulars of existing and intended pipes and wires;

The materials and method to be employed in placing, insulating, and protecting wires in subways;

And generally as to matters connected with the use of subways:

And the council may by such byelaws fix and determine the scale of fees and charges to be paid by any company or person using any subway and the conditions to which any such company and person or persons employed by them and using the subways shall be subject, and they may also by such byelaws fix and determine the penalties to be imposed on the company or any person failing to comply with any of the provisions of this Act, and the continuing penalties to be imposed in the event of any such offence being continued:

Provided that no such byelaws shall have any force or effect until they shall have been approved by the Board of Trade, who may prescribe what notices of the intended byelaws should be given prior to their being taken into consideration, and provided that before any such byelaws are proposed to the Board of Trade for confirmation notice thereof with copies of the intended byelaws shall be given to the Postmaster-General.

11. No byelaws made under the authority of this Act shall come into operation until the same be allowed by the Board of Trade, and twenty-one days' notice of the intention to apply to the Board of Trade, for the allowance of such byelaws shall be given to the company, and the Board of Trade may allow, disallow, or alter any such byelaws as they think proper.

12. Nothing in this Act or in any byelaw made under this Act, or any compliance with any of the provisions of this Act or of any such byelaw, shall relieve the company from any liability to which they would be otherwise subject:

Provided that (without prejudice to any liability of the company) the council shall pay and effectually indemnify the company against all claims, demands, damages, and penalties to which the company may become liable in respect of any injury or damage caused by or consequent upon any act or operation of the company, their officers or servants, which act or operation is done to comply with any requisition of the council under this Act or any byelaw made under this Act, and is done with due and reasonable care, and without negligence or default, and also (in respect of any act or operation so done) against all damage which the company may sustain by reason or in consequence of any injury to any pipe

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Connections  
of wires in  
subway with  
overground  
wires.

Byelaws.

No byelaws  
to come into  
operation  
until allowed  
by the Board  
of Trade.

As to liability  
for accidents

(f) Byelaws relating to subways have been made by the county council and approved by the Bd. of Trade in pursuance of this Act. As to byelaws generally, their effect and validity, see note to sec. 23 of the Mun. Corp. Act, 1882, *ante*, vol. i.

56 & 57 Vict.  
ch. ccli.

or wire caused by or resulting from compliance with any requisition of the council or with any byelaw under this Act and against any costs, charges, and expenses properly incurred by the company or for which the company may become liable in reference to any such claims, demands, damages, or penalties as aforesaid.

Cases of  
emergency.

13. Notwithstanding anything in this Act, the company, subject to and in accordance with the terms and conditions of their existing Acts, may in any case of emergency, and in order to repair, remedy, or prevent any accident, open up any street in which any existing pipe or wire is laid: Provided they shall as soon as possible serve on the council notice of their proceeding to open up the street, and specifying the purpose for which such opening is required.

Questions  
between  
council and  
company  
referred to  
arbitration.  
Arbitrator.

14. If any question shall arise between the council and the company as to whether any subway is adapted for the reception of pipes or wires, or affords convenient access to pipes or wires, or as to the position or manner (where not prescribed by any byelaw) in which any pipe or wire shall be required to be laid, such question shall be referred to the determination of an arbitrator.

15. Where under the provisions of this Act any matter is referred to "an arbitrator," the reference shall be to an arbitrator who shall be appointed by the Board of Trade on the application of the council or the company to whom the question refers, and the Arbitration Act, 1889 (*g*), shall apply to the arbitrator and procedure before him.

Notice of  
action to be  
given to the  
council.

16. No writ shall be issued against and no proceeding shall be instituted against the council or any officer or person acting under their authority in reference to this Act, except after such notice and subject to such conditions as are specified in section 106 of the Metropolis Management Act, 1862 (*h*), which section shall be deemed to be incorporated with this Act.

Recovery of  
penalties.

17. Every sum of money required by this Act to be paid to the council, and every penalty imposed by this Act or by any byelaw made in pursuance thereof, may be recovered by the council in a summary way.

Penalties  
under  
byelaws to  
be paid to  
council.

18. All penalties which may be recovered under this Act or any of the byelaws made by the council under the powers of this Act, shall, notwithstanding anything contained in an Act made and passed in the session holden in the second and third year of the reign of Her present Majesty, chapter seventy-one (*i*), or in any other Act or Acts to the contrary, be paid to the council, and may be carried by them to the credit of the county fund.

Evidence of  
byelaws.

19. The production of a copy of a byelaw made by the council under this Act, if authenticated by the corporate seal, shall, until the contrary is proved, be sufficient evidence of the due making and existence of the byelaw and of the byelaw having been approved by the Board of Trade.

Company's  
obligation to  
give notice  
not to be  
affected.

20. Nothing in this Act shall be deemed to relieve the company from any obligation to which they are subject at the passing of this Act to give notice to any person or authority before commencing to open or interfere with any street.

Wires not to  
be inconsistent  
with regula-  
tions of Board  
of Trade.

21. The company shall not under the powers of this Act or any byelaw made under this Act be required to place any wire in any manner which shall be inconsistent with any regulation or condition for securing the safety of the public or for the protection of the electric lines and works of the Postmaster-General and of other electric lines and works lawfully placed in any position and used for telegraphic communication, made, prescribed, or imposed by the Board of Trade under the Electric Lighting Acts, 1882 and 1888, or under any special Act, or provisional order or licence under the provisions of the Electric Lighting Acts, 1882 and 1888 (*k*), or either of them.

(*g*) **Arbitration Act, 1889** (52 & 53 Vict. c. 49).—This Act regulates submissions to and proceedings on arbitration.

(*h*) **Legal proceedings.**—Sec. 106 of the Met. Man. Amend. Act, 1862, is repealed by the Public Authorities Protection Act, 1893, *ante*; but its provisions appear to be still applicable under the present Act, and are set out in note to sec. 12 of the London Overhead Wires Act, 1891, *ante*, tit. "Overhead Wires."

(*i*) **2 & 3 Vict. c. 71**, i.e., the Metropolitan Police Courts Act, 1839. See note to sec. 26 of the Sale of Food and Drugs Act, 1875, *ante*, tit. "Food and Drugs."

(*k*) **Electric Lighting Acts, 1882 and 1888.**—*Ante*, tit. "Electric Lighting."

22. With regard to subways which the Postmaster-General is entitled to use under the Telegraph Act, 1878 (*l*), the company shall not, under the powers of this Act or any byelaw or regulation made under this Act, be required to place or maintain any pipe or wire in any subway in which any telegraphic line of the Postmaster-General for the time being is placed until the council shall have given notice in writing to the Postmaster-General describing the pipe or wire proposed to be placed in the subway, and the position and manner in which the pipe or wire is proposed to be laid and used or worked, and if within fourteen days after the service of such notice the Postmaster-General shall in writing object thereto on the ground that the placing or using or working of the pipe or wire in the position or manner proposed would injuriously affect such telegraphic line, the company shall not be required so to place such pipe or wire unless or until the objection is withdrawn.

56 & 57 Vict.  
ch. ccii.  
Notice to  
Postmaster-  
General.

23. Nothing in this Act or in any byelaw or regulation made under this Act shall apply (except by way of protection) to the Postmaster-General, or to any telegraphic line belonging to or used by the Postmaster-General, or to any support or attachment thereof, and nothing in this Act or in any such byelaw or regulation shall be deemed to take away, abridge, or prejudicially affect any right or privilege conferred upon the Postmaster-General by the Telegraph Acts, 1863 to 1889, or any of them, or enjoyed or exercisable by the Postmaster-General: Provided that persons resorting to any subway by the authority of the Postmaster-General shall be subject to the byelaws to be made under this Act with respect to the control and regulation of persons resorting to the subways and the prohibition of any interference with any means of access to any subway.

For protection  
of Postmaster-  
General.

Nothing in this Act shall be deemed to confer on the Postmaster-General any greater power of using any subway of the council than he has at the date of this Act.

24. This Act shall not apply to any pipe or wire authorised to be laid or placed by any provisional order or licence under the Electric Lighting Acts, 1882 and 1888 (*m*), or under any special Act incorporating the said Acts, or (in respect of such wires) to any company authorised to lay or place the same.

Act not to  
apply to any  
pipe or wire  
authorised to  
be laid under  
Electric  
Lighting Acts.  
Not to  
authorise  
placing  
unauthorised  
wires in  
subways.  
As to pay-  
ments under  
this Act.

25. Nothing in this Act contained shall be deemed to authorise the council to confer any powers of placing wires for electric lighting purposes in any subway on any company, body, or person not authorised so to place such wires by a special Act, provisional order, or licence under the provisions of the Electric Lighting Acts, 1882 and 1888.

26. All costs and expenses of the council in the execution of this Act (except so far as they may be otherwise provided for by this or any other Act) shall be defrayed as payments for general county purposes within the meaning of the Local Government Act, 1888 . . .

(*l*) **Telegraph Act, 1878** (41 & 42 Vict. c. 76). Sec. 6 empowers the Postmaster-General, *inter alia*, to place and maintain telegraph lines in any subway authorised to be constructed by Act of Parliament passed after January 1st, 1878.

(*m*) **Electric Lighting Acts, 1882 and 1888**.—*Ante*, tit. "*Electric Lighting*."



## SUPERANNUATION.

|                                                                                                  |      |
|--------------------------------------------------------------------------------------------------|------|
| 29 Vict. c. 31 ("Superannuation (Metropolis) Act, 1866").....page                                | 1236 |
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## SUPERANNUATION (METROPOLIS) ACT, 1866 (a).

29 Vict. c. 31. An Act to provide for Superannuation Allowances to Officers of Vestries and other Boards within the Area of the Metropolis Local Management Act. [18th May, 1866]

## [Preamble.]

Vestries,  
district  
boards, and  
county council  
may grant  
superannua-  
tion allowances  
to officers in  
certain cases.

1. The vestry of any parish and district board of any district or any other parochial body (*b*) within the Metropolis, and also the *Metropolitan Board of Works* (*c*), may, at their discretion (*d*), grant to any officer in their respective services, including the chairman of the *Metropolitan Board of Works* (*c*), who shall become incapable of discharging the duties of his office with efficiency by reason of permanent infirmity of mind or body, or of old age, upon his resigning or otherwise ceasing to hold his office, an annual allowance not exceeding in any case two thirds of his then salary, regard being had to the scale of allowances hereinafter contained, and shall charge such allowance to the fund or funds to which such salary would have been charged if he had continued in his office: Provided always, that nothing in this Act contained shall affect the powers contained in the two hundred and thirteenth section of "The Metropolis Management Act, 1855" (*e*).

Allowances  
not to be  
assignable for  
debts, &c.

2. This allowance shall be payable to or in trust for such officer only, and shall not be assignable for nor chargeable with his debts or other liabilities without the consent in writing of the vestry, district board, *Metropolitan Board of Works* (*c*), or other parochial body.

Limitation of  
grant of  
allowances.  
Scale of  
allowances.

3. No officer shall be entitled to such allowance on the ground of old age who shall not have completed the full age of sixty years.

4. Subject to the provisions herein contained, the allowance to be granted after the commencement of this Act to persons who shall have served in an

(a) **Short title.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(b) **Any other parochial body.**—The provisions of this Act are extended to officers employed in baths, washhouses, &c. by the Baths and Washhouses Act, 1878, sec. 12, *ante*.

(c) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(d) **May at their discretion.**—A vestry, &c., has a discretion not merely as to granting or refusing a superannuation allowance to a retiring officer, but also, if an allowance be granted, as to the amount, subject to the scale of maximum allowances prescribed in s. c. 4. *Reg. v. St. Pancras Vestry*, 24 Q. B. D. 371; 59 L. J. Q. B. 244 (C. A.); overruling *Reg. v. St. George's, Southwark* (No. 1), 19 Q. B. D. 533; 56 L. J. Q. B. 652. A vestry, in declining to grant a superannuation allowance to a retiring officer, were influenced by the idea that they had no discretion as to the amount. *Held*, that the vestry had not properly exercised their discretion, and that a *mandamus* should go to them to consider and determine the officer's application for an allowance. *Ib.* Where a committee of a vestry, after full consideration of an application from a rate collector, reported that no superannuation allowance should be granted, on the ground of the high salary he had received, and that for several years he had been allowed to perform his office by deputy, and the vestry, adopting the report, refused the collector's application, a *mandamus* was refused, as there was not sufficient evidence that the vestry had not exercised their discretion lawfully, although it was proved that sixty of the hundred and eight members of the vestry had been elected on a programme which included the total abolition of pensions to salaried officers. *Reg. v. Bromley St. Leonard*, 60 J. P. 725; 13 T. L. R. 1.

(e) **Met. Man. Act, 1855, sec. 213.**—*Ante*, vol. i., p. 200.

established capacity as officers as aforesaid, whether their remuneration be computed by weekly wages, poundage, or percentage on collection of rates, or annual salary, shall be as follows (*f*); that is to say— 29 Vict. c. 31.

To any person who shall have served ten years and upwards and under eleven years, an annual allowance of ten sixtieths of the salary and emoluments of his office;

And in like manner an addition of one sixtieth in respect of each additional year of such service until the completion of a period of service of forty years, when the annual allowance of forty sixtieths may be granted; and no addition shall be made in respect of any service beyond forty years; but in computing the time of an officer's service any period during which such officer shall have been in the service of a vestry, board of trustees, or other parochial board of the same parish superseded by "The Metropolis Management Act, 1855," or of any parish comprised in the district board granting such allowance, shall be included.

5. When for the due and efficient discharge of the duties of any office professional or other peculiar qualifications not ordinarily to be acquired in the vestry or board's service are required, and any person having such qualifications shall have been or may be appointed thereto beyond the age of thirty years, any vestry or board may, by order, direct that when any person now holding or who may hereafter be appointed to such office shall retire from their service, a number of years, not exceeding ten, to be specified in the said order, shall, in computing the amount of superannuation allowance which may be granted to him under this Act, be added to the number of years during which he may have actually served.

Power to increase allowance.

6. Any vestry or board or other parochial body may grant to any person who is compelled to quit their service by reason of severe bodily injury occasioned, without his own default, in the discharge of his public duty, or from infirmity of mind or body, before the completion of the period which would entitle him to a superannuation allowance, a gratuity not exceeding three months' (*g*) pay for every two years of service.

Power to grant gratuities in case of retirement before entitled to superannuation allowance. Notice of grant to be given. Interpretation of terms.

7. No grant shall be made without one month's (*g*) previous notice, to be specially given in writing to every member of the vestry or district board, of the proposal to make such grant, and the time when it shall be brought forward.

8. In the construction of this Act the term "Metropolis" shall have the same interpretation as in the Metropolis Management Act, 1855, and Metropolis Management Amendment Act, 1862; the words "other parochial body" shall mean all trustees, overseers, and others who make the several rates for the purposes of the vestry or the district board of any district.

## LONDON COUNCIL (GENERAL POWERS) ACT, 1891.

[54 & 55 Vict. ch. ccvi.]

\* \* \* \* \*

### SUPERANNUATION, ETC.

60. The council shall have and from the twenty-first day of March one thousand eight hundred and eighty-nine shall be deemed to have had power to grant to any person who shall have been in their employment and formerly in the employment of the Metropolitan Board of Works (in cases where they are doubtful whether such person was an officer in an established capacity within the meaning of the Superannuation Act, 1866, or entitled to any superannuation or other allowance under any of the Superannuation Acts) such annual allowance and subject to such provisions as they might have granted to such person if he had been serving in an established capacity as such officer as aforesaid, or they may give a gratuity to any such person or the representatives of any such

Special allowances

(*f*) Allowance shall be as follows—Subject to the maximum here fixed, the amount is in the discretion of the vestry, &c. *Reg. v. St. Pancras Vestry, supra.*

(*g*) Month, i.e., calendar month. Interpretation Act, 1889 (52 & 53 Vict. c. 63), sec. 3.

54 & 55 Vict.  
ch. ccvi.

person. This enactment shall be deemed to extend to and include any such person who shall have left the employment of the Metropolitan Board of Works during the year ending on the twenty-first day of March one thousand eight hundred and eighty-nine, and shall not have had any superannuation allowance or gratuity granted to him by the said board.

Nothing in this enactment shall be construed as binding the council to grant any such allowance or gratuity.

How special  
allowance shall  
be charged.

61. A grant of an allowance or gratuity under the last preceding section of this Act shall be charged on and paid out of the fund or funds on which the salary, wages, or emoluments of the person to whom the same is granted would have been charged or paid if he had continued in his office, service, or employment.

Superannua-  
tion and  
provident  
fund.

62.—(1) It shall be lawful for the council to establish in manner hereinafter provided a superannuation and provident fund for the provision of payments or other allowances on death, superannuation, resignation, retirement, or discharge to persons who have been taken into the employment of the council since the twenty-first day of March one thousand eight hundred and eighty-nine:

Provided that the council, if they so resolve, may so frame the scheme or schemes hereinafter mentioned as to authorise the admission to the benefits thereof of the officers and men of the Metropolitan Fire Brigade and their wives and families, and persons employed by any committee of the council, and persons employed jointly by the council, and any other authority or person and persons who, having been transferred to the service of the council under the Local Government Act, 1888, are not entitled to superannuation allowances under the Superannuation Act, 1866.

(2) The council may prepare and approve by resolution a scheme or schemes for the establishment of such fund, and may determine in and by any such scheme the following matters and things or any of them (that is to say):—

What classes of persons shall be entitled to contribute to and participate in the benefit of the fund, and to what extent such contribution shall be payable by persons entering or who shall have entered the service of the council after the twenty-first day of March one thousand eight hundred and eighty-nine;

The division of the persons contributing to and to be benefited by the fund into two or more classes according to the amount of salary, or according to such other conditions as the council shall determine, power being reserved by the scheme to remove any contributor from the one class to the other. Provided that no such removal shall place the contributor or his representatives in a worse position than he would have occupied if the removal had not been made;

What (if anything) shall disqualify any person in the employ of the council from becoming a contributor to the fund and participating in the benefits thereof;

Under what circumstances any person having been a contributor to the fund shall cease to continue a contributor and to be entitled to participate in the benefits thereof;

What proportion (if any) of his own contributions to the fund any person having been, but voluntarily ceasing to be a contributor thereto, shall be entitled to receive;

What proportion (if any) of the additions made by the council to the fund in respect of the contributions of any member shall be payable to the representatives of such member in the event of his dying before he becomes entitled to any benefit under the scheme on superannuation, resignation, or retirement;

The percentage or proportion of their salaries or wages which shall be payable to the fund by the contributors;

The age at which or other circumstances in which a person shall become entitled to benefit under any scheme;

The payment to a person entitled to benefit under any scheme either by way of a gross sum or by way of an annuity instead of such gross sum calculated at such rate of interest as may be defined by the scheme;

The rate at which interest, whether simple or compound, shall be calculated in respect of the moneys contributed to the fund by the contributors and by the council respectively;



The future management and direction of the fund and the number of and mode of appointment of the committee for administering and managing the same and the powers to be conferred upon the committee with respect to such administration and management and whether any and if so what persons other than members of the council should form part of or be associated with the said committee for the purposes of the administration and management of the fund ;

The securities upon which the moneys received on account of the fund shall from time to time be invested ;

And generally all such other matters and things in relation to the fund as the committee appointed by this Act shall deem fit and proper to form part of and to be included in such scheme.

**63.** The accounts of the council under this part of this Act shall be audited in the same manner as other accounts of the council. 54 & 55 Vict. ch. cevi.

**64.** Any scheme under this part of this Act shall contain the following provisions :— Forfeiture of rights under scheme in certain cases.

Any contributing member leaving the service of the council in consequence of reductions or alterations in the establishment or from his services being discontinued from any cause other than fraud or dishonesty or misconduct which involves pecuniary loss to the council shall be entitled to receive back the whole amount of his own contributions with such interest as shall have accrued thereon under the scheme and shall have no further claim upon the fund ;

Any contributing member retiring from the service of the council before superannuation *bonâ fide* of his own accord and not to escape dismissal for fraud or dishonesty or misconduct which involves pecuniary loss to the council shall be entitled to receive back the whole amount of his own contributions to the fund with interest as aforesaid, and shall have no further claim on the fund ;

The representatives of any contributing member who (not having been guilty of fraud or dishonesty or misconduct which involves pecuniary loss to the council) shall die before he becomes entitled to any benefit under the scheme on resignation or retirement shall be entitled to receive back the whole contributions of such member with interest as aforesaid, and shall have no further claim upon the fund (*h*) ;

Any contributing member dismissed the service of the council for fraud or dishonesty or misconduct which involves pecuniary loss to the council shall at the discretion of the council forfeit all or any part of his contributions and lose all benefits from the fund except such return (if any) as may at such discretion be made to him out of his own contributions.

**65.** The council shall supply a copy of any scheme in force under this part of this Act at a price not exceeding sixpence to any person in the employ of the council interested in the fund or the representatives of any such officer or servant in case of death, and shall supply gratuitously to every officer or servant or other person having an interest in the fund a copy of the last annual balance sheet of the same for the time being. Copies of scheme to be supplied.

**66.**—(1) The council shall at the end of each and every half-year after the establishment of the superannuation fund contribute thereto a sum equal in amount to the sum which during the same half-year has been contributed thereto by the persons in the employ of the council : Council to contribute to fund.

(2) In the event of the moneys standing to the credit of the fund being at any time inadequate for the payment to contributing members of the sums to which they will be entitled under the provisions of the scheme the amount of any deficiency shall from time to time be made good by the council :

(3) The council may also pay any salaries, costs, and expenses of the management and administration of the fund and of and incidental to investments :

(4) All such sums shall be paid as payments for general county purposes within the meaning of the Local Government Act, 1888 :

Provided that where the whole or any part of the salary or wages of any contributor to the fund is not payable as a payment for general county purposes

(*h*) **Death before entitled to benefit.**—This provision is amended by the Lon. Coun. Council. (Genl. Powers) Act, sec. 41, *post*.

54 & 55 Vict.  
ch. cevi.

the contributions to be made by the council in respect of such contributing member and any deficiency or costs attendant thereon shall be defrayed out of the same fund or rate as the salary or wages of the contributing member.

Contracts with  
assurance  
society.

**67.** It shall be lawful for the council from time to time to enter into and carry into effect any contract with any company carrying on the business of life assurance or provident fund for the undertaking by such company of the liabilities of the council under any scheme or schemes made under this part of this Act or any of them.

Alteration of  
scheme.

**68.** It shall be lawful for the council from time to time on the recommendation of the committee, but subject to the provisions of this Act, to alter any portion of any scheme. But no contributor nor the representatives of any contributor shall by reason of any such alteration be placed in any worse position than if the alteration had not been made.

Superannua-  
tion Acts not  
to apply to  
certain  
persons.  
Saving rights.

**69.—(1)** No person appointed or to be appointed to any employment since the twenty-first day of March one thousand eight hundred and eighty-nine who shall have agreed to accept the terms of the recited resolution of the council of the second day of April one thousand eight hundred and eighty-nine shall be entitled to any superannuation or other allowance under any of the Superannuation Acts, but except as aforesaid nothing in this Act shall in any way prejudice or affect any right or claim under any of the Superannuation Acts of any person who at the passing of this Act may be in the employment of the council.

**(2)** Nothing in the Act shall enable the council by any scheme to compel to contribute to the fund any persons hereafter appointed to any such employment for whom any provision can be made by way of superannuation, pension, or gratuity under the Fire Brigade Act, 1865, the Lunacy Act, 1890, or the Middlesex Industrial Schools Acts.

\* \* \* \* \*

## LONDON COUNTY COUNCIL (GENERAL POWERS) ACT, 1892.

[55 & 56 Vict. ch. cexxxviii.]

\* \* \* \* \*

### SUPERANNUATION.

Death before  
entitled to  
benefit.

**41.** Notwithstanding anything to the contrary contained in section sixty-four of the London Council (General Powers) Act, 1891, the council may in any scheme to be prepared and approved by them under part four of the said Act provide (if they think fit) that the representatives of any contributing member who (not having been guilty of fraud or dishonesty or misconduct which involves pecuniary loss to the council) shall die before he becomes entitled to any benefit under the scheme on resignation or retirement, and also any contributing member who shall be incapacitated for the service of the council by reason of illness, shall be entitled to receive from the fund such amounts as may be defined by the scheme out of moneys contributed to the fund by the council in addition to the contributions made by the contributing member.

Benefit not  
assignable.

No benefit derivable by any contributing member or his representatives from the fund in respect of the contributions by the council shall (if the council so provide under such scheme) be assignable by him or chargeable with his debts without the consent in writing of the council, and the council shall have power from and after any attempt on the part of a contributing member to alienate, assign, or charge the same or any part thereof without such consent, or on the happening of any event whereby the same or some part thereof, if belonging absolutely to such contributing member, would become vested in or payable to some other person or persons, to apply any moneys which may from time to time under such scheme be or become payable to such contributing member out of the contributions by the council, when and as such moneys shall become payable or any part thereof, in such manner as the council may in their absolute discretion think fit, for the maintenance, support, or benefit of such contributing member and his wife, family, relatives, and persons dependent on him, or any one or more of them.

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## TECHNICAL INSTRUCTION.

|                                                                                 |           |
|---------------------------------------------------------------------------------|-----------|
| 52 & 53 Vict. c. 76 ( " Technical Instruction Act, 1889 " ) .....               | page 1241 |
| 54 Vict. c. 4 ( " Technical Instruction Act, 1891 " ) .....                     | 1243      |
| 55 & 56 Vict. c. 29 ( " Technical and Industrial Institutions Act, 1892 " ) ... | 1244      |

## TECHNICAL INSTRUCTION ACT, 1889.

52 & 53 Vict. c. 76. An Act to facilitate the Provision of Technical Instruction. [30th August, 1889]

1.—(1) A local authority (*a*) may from time to time out of the local rate supply or aid the supply of technical or manual instruction (*b*) to such extent and on such terms as the authority think expedient, subject to the following restrictions, namely :—

Power for local authority to supply or aid the supply of technical instruction.

- (a) The local authority shall not out of the local rate supply or aid the supply of technical or manual instruction to scholars receiving instruction at an elementary school in the obligatory or standard subjects prescribed by the minutes of the Education Department for the time being in force ;
- (b) It shall not be required, as a condition of any scholar being admitted into or continuing in any school aided out of the local rate, and receiving technical or manual instruction under this Act, that he shall attend at or abstain from attending any Sunday school or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere : Provided that in any school, the erection of which has been aided under this Act, it shall not be required, as a condition of any scholar being admitted into or continuing in such school, that he shall attend at or abstain from attending any Sunday school or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere ;
- (c) No religious catechism or religious formulary, which is distinctive of any particular denomination, shall be taught at any school aided out of the local rate, to a scholar attending only for the purposes of technical or manual instruction under this Act, and the times for prayer or religious worship, or for any lesson or series of lessons on a religious subject, shall be conveniently arranged for the purpose of allowing the withdrawal of such scholar therefrom ;
- (d) A local authority may, on the request of the school board for its district or any part of its district, or of any other managers of a school or institution within its district for the time being in receipt of aid from the Department of Science and Art, make, out of any local rate raised in pursuance of this Act, to such extent as may be reasonably sufficient, having regard to the requirements of the district, but subject to the conditions and restrictions contained in this section, provision in aid of the technical and manual instruction for the time being supplied in schools or institutions within its district (*c*), and shall distribute the provision so made in proportion to the nature and amount of efficient technical or manual instruction supplied by those schools or institutions respectively (*d*) ;
- (e) Where such other managers of a school or institution receive aid from a

(*a*) **Local authority**, i.e., in London, the county council. Sec. 4 (1), *post*.

(*b*) **Contribution to technical instruction**.—The county council may contribute any sum received in respect of the residue of the local taxation (customs and excise) duties, or any part of that sum, for the purposes of technical instruction, and may make that contribution over and above any sum that may be raised under this Act. See note (*m*) to sec. 23 of the Loc. Govt. Act, 1888, *ante*, vol. i.

(*c*) **Within its district**.—The county council may now make provision in aid of technical or manual instruction in a school or institution outside its district. Technical Instruction Act, 1891, sec. 1 (1) (*a*), *post*.

(*d*) **Distribution of provision**.—The county council may now consider all the circumstances of the case, and is not bound to distribute the provision made exclusively in proportion to the nature and amount of efficient technical or manual education supplied. Technical Education Act, 1891, sec. 1 (2), *post*.



52 & 53 Vict.  
c. 76.

local authority in pursuance of this section, the local authority shall, for the purposes of this Act, be represented on the governing body of the school or institution in such proportion as will, as nearly as may be, correspond to the proportion which the aid given by the local authority bears to the contribution made from all sources other than the local rate and money provided by Parliament to the cost of the technical or manual instruction given in the school or institution aided;

(f) If any question arises as to the sufficiency of the provision made under this section, or as to the qualification of any school or institution to participate in any such provision, or as to the amount to be allotted to each school or institution, or as to the extent to which, or mode in which, the local authority is to be represented on the governing body of any such school or institution, the question shall be determined by the Department of Science and Art: Provided that no such provision, out of any rate raised in pursuance of this Act, shall be made in aid of technical or manual instruction in any school conducted for private profit; and

(g) The amount of the rate to be raised in any one year by a local authority for the purposes of this Act shall not exceed the sum of one penny in the pound (e).

(2) A local authority may for the purposes of this Act appoint a committee consisting either wholly or partly of members of the local authority, and may delegate to any such committee any powers exercisable by the authority under this Act, except the power of raising a rate or borrowing money.

(3) Nothing in this Act shall be construed so as to interfere with any existing powers of school boards with respect to the provision of technical and manual instruction.

Provision for  
entrance  
examination.

2. It shall be competent for any school board or local authority, should they think fit, to institute an entrance examination for persons desirous of attending technical schools or classes under their management or to which they contribute.

Parliamentary  
grants in aid  
of technical  
instruction.

3. The conditions on which parliamentary grants may be made in aid of technical or manual instruction shall be those contained in the minutes of the Department of Science and Art in force for the time being.

Provisions as  
to local  
authorities.

4.—(1) For the purposes of this Act the expression "local authority" shall mean the council of any county or borough, and any urban sanitary authority within the meaning of the Public Health Acts (f).

(2) The local rate for the purposes of this Act shall be—

(a) In the case of a county council, the county fund;

(b) In the case of a borough council . . .

(c) In the case of an urban sanitary authority . . .

(3) A county council may charge any expenses incurred by them under this Act on any part of their county for the requirements of which such expenses have been incurred.

(4) A local authority may borrow for the purposes of this Act—

(a) In the case of a county council, in manner provided by the Local Government Act, 1888 (g);

(b) In the case of a borough council . . .

(c) In the case of an urban sanitary authority . . .

51 & 52 Vict.  
c. 41.

Audit of  
accounts of  
aided schools.

5. Where the managers of a school or institution receive aid from a local authority in pursuance of this Act they shall render to the local authority such accounts relating to the application of the money granted in aid, and those accounts shall be verified and audited in such manner as the local authority may require, and the managers shall be personally liable to refund to the local authority any money granted under this Act, and not shown to be properly applied for the purposes for which it was granted.

(e) *Amount of rate.*—See *Brown, Ex parte, In re Liverpool Corporation, ante*, p. 1133. As to the construction of the limit here imposed on the rate in parishes where there is any agricultural land, see the Agricultural Rates Act, 1896, *ante*, tit. "Rating."

(f) *Urban sanitary authority*, i.e., a sanitary authority in an urban sanitary district beyond the Metropolis. Pub. Hlth. Act, 1875 (38 & 39 Vict. c. 55), sec. 5.

(g) *Borrowing by county council.*—See Loc. Govt. Act, 1888, sec. 40 (9) and note thereto, *ante*, vol. i.

6. [*Audit of accounts of urban sanitary authority.*]

52 & 53 Vict.  
c. 76.

7. [*Application of the Act to Ireland.*]

8. In this Act—

The expression “technical instruction” shall mean instruction in the principles of science and art applicable to industries, and in the application of special branches of science and art to specific industries or employments. It shall not include teaching the practice of any trade or industry or employment, but, save as aforesaid, shall include instruction in the branches of science and art with respect to which grants are for the time being made by the Department of Science and Art, and any other form of instruction (including modern languages and commercial and agricultural subjects), which may for the time being be sanctioned by that department by a minute laid before Parliament and made on the representation of a local authority that such a form of instruction is required by the circumstances of its district.

Meaning  
of technical  
and manual  
instruction.

The expression “manual instruction” shall mean instruction in the use of tools, processes of agriculture, and modelling in clay, wood, or other material.

9. This Act shall not extend to Scotland.

Extent of Act.  
Short title.

10. This Act may be cited as the Technical Instruction Act, 1889.

## TECHNICAL INSTRUCTION ACT, 1891.

54 Vict. c. 4. An Act to amend the Law relating to Technical Instruction. [26th March, 1891]

1.—(1) Subject to the conditions and restrictions contained in the Technical Instruction Act, 1889, a local authority (*h*) may—

Explanation  
of powers of  
local authority  
as to technical  
instruction.  
52 & 53 Vict  
c. 76.

(a) Make such provision in aid of the technical or manual instruction for the time being supplied in a school or institution outside its district as may, in the opinion of the authority, be necessary for the requirements of the district in cases where similar provision cannot be so advantageously made by aiding a school or institution within its district (*i*); and

(b) Provide or assist in providing scholarships for or pay or assist in paying the fees of students ordinarily resident in the district of the local authority at schools or institutions within or outside that district (*i*).

(2) In distributing the provision made in aid of technical or manual instruction, the local authority may consider all the circumstances of the case, and shall not be bound to distribute the provision so made exclusively in proportion to the nature and amount of efficient technical or manual instruction supplied by those schools or institutions respectively (*i*).

2. Any moneys received by a county council under sub-section (1) (b) of section one of the Local Taxation (Customs and Excise) Act, 1890 (*k*), and directed by resolution of the county council to be appropriated or to be set aside for the purposes of technical or manual instruction, shall, although not expended or specifically contributed or allotted in whole or in part before the end of the financial year, remain applicable for such purposes, and shall not be applied in manner provided by sub-section (2) and the following sub-sections of section twenty-three of the Local Government Act, 1888, until the county council shall have made an order for such application.

Application  
of balances.  
53 & 54 Vict.  
c. 60.

Where a council shall have referred to a committee the question of appropriating to purposes of technical or manual instruction any sum consisting of the whole or any part of such moneys, this section, unless and until the council otherwise direct, shall, until the committee shall have made their report and the council shall have arrived at a decision thereon or the appointment of the

51 & 52 Vict.  
c. 41.

(*h*) **Local authority**, i.e., in London, the county council. Technical Instruction Act, 1889, sec. 4 (1), *ante*.

(*i*) **Provision in aid**.—This section amends the Technical Instruction Act, 1889, sec. 1 (1) (d), *ante*.

(*k*) **Local Taxation (Customs and Excise) Act, 1890**.—See notes to the Loc. Govt. Act, 1888, secs. 22 and 23, *ante*, vol. i.

- 54 Vict. c. 4. committee shall have been rescinded, apply to such sum as if the same had been directed by the council to be appropriated to such purposes.
- Construction of 53 & 54 Vict. c. 60, s. 1. **3.** The expression "technical education" in section one of the Local Taxation (Customs and Excise) Act, 1890 (*l*), shall be deemed to include both technical and manual instruction within the meaning of the Technical Instruction Acts, 1889 and 1891.
- Short title and construction. **4.** This Act may be cited as the Technical Instruction Act, 1891, and shall be construed as one with the Technical Instruction Act, 1889, and this Act and the Technical Instruction Act, 1889, may be cited together as the Technical Instruction Acts, 1889 and 1891.

## TECHNICAL AND INDUSTRIAL INSTITUTIONS ACT, 1892.

**55 & 56 Vict. c. 29.** An Act to facilitate the Acquisition and Holding of Land by Institutions for promoting Technical and Industrial Instruction and Training. [27th June, 1892]

- Short title. **1.** This Act may be cited as the Technical and Industrial Institutions Act, 1892.
- Definition of institution. **2.** This Act applies to every institution established, whether before or after the passing of this Act, for effecting all or any of the following purposes, that is to say:—
- 52 & 53 Vict. c. 76. (i) To give technical instruction within the meaning of the Technical Instruction Act, 1889;
- (ii) To provide the training, mental or physical, necessary for the above purpose;
- (iii) In connexion with the purposes before mentioned, to provide workshops, tools, scientific apparatus and plant of all kinds, libraries, reading rooms, halls for lectures, exhibitions, and meetings, gymnasia, and swimming baths, and also general facilities for mental and physical training, recreation, and amusement, and also all necessary and proper accommodation for persons frequenting the institution;
- and every such institution is in this Act referred to as the institution.
- Governing body. **3.**—(1) The governing body of the institution may be any body corporate, council, public authority, local authority, commissioners, directors, committee, trustees, or other body of persons, corporate or unincorporate, willing to undertake, or elected or appointed for the purpose of undertaking, or having, the government and management of the institution.
- (2) The governing body may make byelaws and rules for the management and conduct of the institution.
- Incorporation of 8 & 9 Vict. c. 18. **4.** The Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860 (*m*) (except the provisions of those Acts relating to the purchase and taking of lands otherwise than by agreement, and with respect to the entry upon lands by promoters of the undertaking, and with respect to determining the amount of purchase money by valuation of surveyors), are hereby incorporated in this Act.
- 23 & 24 Vict. c. 106. **5.** The governing body of the institution may by agreement enter on, take, and use any land required by them for the purposes of the institution, and such land may be conveyed either to the governing body or to trustees for the governing body.
- Power to take land by agreement. **6.**—(1) A conveyance of land may be made to the governing body of the institution or to trustees for the governing body either for valuable consideration in money, or in consideration of a rentcharge, or by way of exchange for other land, or subject as in this Act provided, by way of free gift, and without any consideration.
- Conveyance may be by way of sale, exchange, or gift. (2) A conveyance under this Act by a person having an equitable estate shall operate to pass any bare outstanding legal estate vested in a trustee.

(*l*) Local Taxation (Customs and Excise) Act, 1890. — See note (*h*) on page 1243.

(*m*) Lands Clauses Consolidation Acts. — As to these Acts, see Cripps on the "Law of Compensation" and other books on the same subject, which is beyond the scope of this work.



7.—(1) A conveyance under this Act by a person not entitled to dispose absolutely for his own benefit of the land proposed to be conveyed (other than a conveyance on a sale or exchange for the best consideration in money, or by way of rentcharge, or in land to be reasonably obtained) shall be subject to the following restrictions and provisions :—

55 & 56 Vict.  
c. 29.

Conveyances  
by limited  
owners.

(a) It shall not in itself, or in addition to any land conveyed under this Act by the same person, comprise more than two acres in the whole in any one county, city, or borough :

(b) It shall be made either with the consent of the person, if any, entitled to the next estate of freehold in remainder for the time being, or with the approval of the High Court of Justice.

(2) Every application to the court for an order approving a conveyance under this Act shall be by summons in chambers, and shall, subject to the Acts regulating the court, be assigned to the Chancery division.

(3) On any such application the court may direct notice to be served on such persons, if any, as it thinks fit.

(4) On any such application the court shall have regard to the circumstances of the settled estate, the wants of the neighbourhood, and the interests of the persons entitled in remainder, and the court, if it thinks fit under all circumstances of the case, may make an order approving the proposed conveyance. Such order, if the court thinks fit, may be made on such terms and conditions, if any, as the court thinks proper ; but no such order shall be made if the application is opposed by any person entitled in remainder, unless the court is of opinion that the opposition is unreasonable, or the interest of the person opposing so remote that it may properly be disregarded.

8. Every institution for which land has been acquired under an exercise of the powers conferred by this Act shall be open generally either to all persons or to all persons within specified limits as to age, qualification, or otherwise, and either without payment or on specified terms as to times of attendance and payment of subscriptions or fees or otherwise, but so that no preference be given to any person or class of persons within the specified limits.

Institution  
to be public.

9.—(1) Land required under the powers of this Act shall not be used otherwise than for the purposes of an institution within the meaning of this Act, but, with the consent of the Charity Commissioners, may be sold or may be exchanged for other land.

Site may be  
sold or  
exchanged.

(2) The governing body or their trustees may execute conveyances and do all acts necessary to effectuate a sale or exchange.

(3) On a sale, the receipt of the governing body or of the trustees for the governing body shall be a sufficient discharge for the purchase money, and such money shall, as soon as convenient, be invested in the purchase of other land.

(4) Land purchased or taken in exchange under this section shall be devoted to the same purposes and be liable to the same incidents as originally were applicable to or affected the land sold or given in exchange.

(5) Money arising by sale may, until reinvested in the purchase of land, be invested in the names of the governing body or of trustees for the governing body in any manner in which trust money is for the time being by law authorised to be invested ; and all dividends and income on investments so made and all the resulting income shall be invested in like manner so as to accumulate in the way of compound interest, and be added to capital until the capital is reinvested in the purchase of land.

10.—(1) Parts one and two of the Mortmain and Charitable Uses Act, 1888, and so much of the Mortmain and Charitable Uses Act, 1891 (*n*), as requires that land assured by will shall be sold within one year from the death of the testator, shall not apply to conveyances or to assurances by will made under or for the purposes of this Act, but every such conveyance or assurance shall be enrolled as soon as may be in the books of the Charity Commissioners.

Parts i. and  
ii. of  
51 & 52 Vict.  
c. 42 and  
part of  
54 & 55 Vict.  
c. 73 not to  
apply.

(2) Any corporate body may acquire and shall be entitled to hold and retain land for the purposes of this Act without any licence in mortmain.

11. This Act shall not extend to Scotland.

Extent of Act.

(*n*) **Mortmain and Charitable Uses Acts.**—See note to sec. 1 of the Working Classes Dwellings Act, 1890, *ante*, tit. "*Housing of the Working Classes*."

## THAMES.

- 42 & 43 Vict. ch. cxcviii. ("Metropolis Management (Thames River Prevention of Floods) Amendment Act, 1879") .....page 1246
- 45 Vict. ch. lvi. ("Metropolitan Board of Works (Various Powers) Act, 1882"),  
secs. 46, 47, and 48 .....1258

## METROPOLIS MANAGEMENT (THAMES RIVER PREVENTION OF FLOODS) AMENDMENT ACT, 1879.

- 42 & 43 Vict. ch. cxcviii. An Act to amend the Metropolis Management Act, 1855, and the Acts amending the same, so far as relates to the protection of the Metropolis from Floods and Inundations caused by the overflow of the River Thames; and for other purposes.

[11th August, 1879]

[*Preamble recites Metropolis Management Act, 1855.*]

*Preliminary.*

- Short title. 1. This Act may for all purposes be cited as the Metropolis Management (Thames River Prevention of Floods) Amendment Act, 1879 (*a*).
- Interpretation of terms. 2. In the construction of this Act the following words and expressions have the following meanings, unless excluded by the subject or context; that is to say—
- 19 & 20 Vict. c. 112. The expression "the principal Act" means the Metropolis Management Act, 1855, as amended by the Metropolis Management Amendment Act, 1856, and the Metropolis Management Amendment Act, 1862 (*b*):
- 25 & 26 Vict. c. 102. The expression "the Secretary of State" means one of Her Majesty's principal Secretaries of State:
- The expression "the board" means the *Metropolitan Board of Works* (*c*):
- The expression "person" includes any corporation, whether aggregate or sole:
- The expression "river Thames" includes the rivers, streams, and water-courses within the flow and re-flow of the tides of the said river within the limits of this Act:
- The expression "bank" and the expression "dam" includes any bank, wall, fence, wharf, dock, lock, gate, sluice, dam, or defence, or appliance, whether of a movable, temporary, fixed, or permanent character, for the protection of lands within the limits of this Act from floods or inundations caused by the overflow of the river Thames:
- The expression "flood works" means the entire or partial construction, alteration, reconstruction in the same or any altered position of any bank, and the repairing, raising, strengthening, improvement, or removal of any bank, and the enlargement, contraction, raising, lowering, arching over, improvement, or alteration of any sewer, channel, or watercourse, and the discontinuance, closing up, or destruction of any such sewer, channel, or watercourse necessary for the protection of lands within the limits of this Act from floods or inundations caused by the overflow of the river Thames:
- The expression "lands" includes messuages, buildings, erections, banks, lands, tenements, and hereditaments of any tenure, and rights and easements in, over, under, or in respect of the same:
- The expression "street," in addition to the meaning assigned to the same term by the principal Act, includes the carriageway of any turnpike road and any county bridge and any place laid out as a street:
- The expression "premises" includes lands and streets:

(*a*) **Thames.**—The river Thames is under the control and supervision of the Thames Conservators, of whom six are appointed by the London County Council. See note to sec. 3 (xiii) of the Loc. Govt. Act, 1888, *ante*, vol. i.

(*b*) **Metrop. Man. Acts,** 1855, 1856, and 1862, *ante*, vol. i.

(*c*) **Met. Bd. Wks.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 8), *ante*, vol. i.

The expression "owner" means (except where otherwise expressly provided) the person for the time being receiving the rackrent of the lands or premises in connexion with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such lands or premises were let at a rackrent, and includes any commissioners, trustees, or other persons or person in whom the premises in connexion with which the said word is used are vested, or who are charged with the control or management of the same.

42 & 43 Vict.  
ch. xcvi.

3. The limits of this Act shall extend to the Metropolis as defined by the principal Act. Limits of Act.

4. The principal Act, as amended by this Act, and this Act shall be read and construed together as one Act. Construction of Acts.

*Execution of Works.*

5. From and after the passing of this Act the execution of all flood works shall be subject to and in accordance with such plans as the *board (d)* may from time to time cause to be prepared in pursuance of this Act, or with such plans or specification as the *board (d)* may from time to time approve, and such works shall be carried on and completed to the satisfaction of the *board (d)*, and save as aforesaid no such works shall be commenced, carried on, or completed. Flood works not to be executed except in accordance with plans.

6. Subject to the provisions and limitations in this Act contained, the following bodies and persons shall be liable to provide for the execution of all flood works which may from time to time in the opinion of the *board (d)* be necessary for the protection of premises within the limits of this Act from floods or inundations caused by the overflow of the river Thames; that is to say, Bodies and persons liable to provide for execution of flood works.

In respect of all such works to be executed upon any premises vested in or subject to the control and management of the Commissioners of Sewers of the City of London; the vestry of any parish mentioned in schedule A. to the principal Act, or the board of works of any district mentioned in schedule B. to the principal Act, such commissioners, vestry, or board of works:

In respect of all other such works the owners of the premises upon which the same are to be executed:

Where any such works are to be executed through, along, over, or under any part of the bed or soil of the river Thames immediately connected with any premises, such works shall be deemed to be works to be executed upon such premises.

7. The *board (d)*, as soon as may be after the passing of this Act, shall cause a plan to be prepared showing the line and level of the flood works which are in their opinion immediately necessary for effectually protecting all premises within the limits of this Act which in their judgment require protection from floods or inundations caused by the overflow of the river Thames; and when such plan has been prepared the *board (d)* shall cause notice of the preparation thereof to be served upon the Commissioners of Sewers of the City of London and upon the vestry of every parish and the board of works for every district in which any of the works shown on such plan are proposed to be executed, and upon every owner of premises liable to provide for the execution of any of the same, and shall together therewith cause two copies (e) of such part of such plan as relates to any of such works in respect of the execution of which such commissioners, vestry, board of works, and owner are or is liable respectively to provide to be transmitted to them or him respectively, together with such sections, estimates, and other information relating to such copies as aforesaid as they may think proper; and the *board (d)* shall by such notice require such commissioners, vestry, district board, or owner to inform the *board (d)* within twenty-eight days after the receipt of the same whether they or he intend or intends to execute to the satisfaction of the *board (d)* the works shown on the copies of such parts of such plan respectively, and for the execution of which such commissioners, vestry, district board, or owner are or is respectively liable to provide, or whether they or he object or objects to execute such works, and the reasons for such objection. Board to make plan of necessary flood works, and serve notice of the making thereof upon Commissioners of Sewers of the City of London, vestries, district boards, and owners affected thereby.

(d) *Met. Bd. Wks.*—See note (c) on page 1246.

(e) *Two copies.*—It is not necessary now to transmit more than one copy. *Met. Bd. Wks. (Various Powers) Act, 1882, sec. 47, post.*



42 & 43 Vict.  
ch. cxviii.

If the Commissioners of Sewers of the City of London, the vestry of any parish, board of works for any district, or any owner or owners give notice to the *board (f)* of their or his objection to execute any flood works in manner aforesaid, and of the reasons for such objection, the *board (f)* shall, during the twenty-eight days next after the receipt thereof, consider such objection and reasons, and shall as soon as may be after the expiration of such last-mentioned period of twenty-eight days make such order in relation thereto as the *board (f)* may think just, and may by such order make any modification or alteration in such flood works, and shall transmit a copy of such order to the body or person making such objection.

In case the *board (f)* by any such order make any modification or alteration in the flood works so objected to as aforesaid, they shall amend the plan prepared in manner aforesaid so as to show thereon such modification or alteration, and in such case they shall transmit to the body or person by whom such objection was made two copies of the part of such plan so amended, together with such order.

The *board (f)* shall cause a copy of such plan showing all amendments made therein to be kept at their office, and the Commissioners of Sewers, the vestry of every parish, and the board of works of every district to which copies of any part of such plan or of any amendments therein have been transmitted as aforesaid shall cause one of such copies to be kept at their office, and all persons may at all reasonable times inspect any such copy without payment.

Limitation  
of powers as  
to works.

8. Nothing in this Act contained shall authorise the *board (f)*, notwithstanding the general definition of the term bank and flood works, to direct the execution of any works other than such as are necessary for the protection of lands within the limits of this Act from floods and inundations caused by the overflow of the river Thames, and the *board (f)* shall have no authority under this Act to prescribe or order any works for any other purpose, or any works for the embankment of the river Thames, or any part thereof, in the nature of the various embankments heretofore executed by the board under the authority of any special Act of Parliament.

Powers of  
*board (f)* as  
to flood works  
of a temporary  
character.

9. Where in the opinion of the *board (f)* the erection of a dam of a fixed or permanent character on any premises would materially interfere with the trans-action of the business carried on upon the river side of such premises, the *board (f)* may, instead of ordering such works of a fixed or permanent character, by order authorise and require the erection of a temporary or movable dam (*g*), subject to such regulations, restrictions, and conditions with respect to the fixing, removing, and maintenance of the same as the *board (f)* may from time to time think necessary; and the *board (f)* may by any such regulations, restrictions, and conditions authorise the temporary removal of any such dam during such times as they may think proper, and may prohibit the removal or alteration of the same, except during such times and in such manner as to them may seem necessary or proper.

Penalty for  
breach of  
regulations,  
&c. as to  
temporary  
works.

10. Where the *board (f)* have ordered the erection of any dam of a temporary or movable character subject to any regulations, restrictions, or conditions, any person making default in the due observance or committing a breach of any of the same shall be liable to a penalty not less than twenty pounds and not exceeding fifty pounds, and in case of a continuing offence to a further penalty not less than twenty pounds and not exceeding fifty pounds for each day after the first during which such default or breach continues; but, save as aforesaid, such person shall not be liable to any penalty or damages or to pay any compensation by reason or in respect of any such default or breach.

Power to  
Commissioners  
of Sewers of  
City of London,  
vestry, or  
district board  
to execute  
flood works.

11. The Commissioners of Sewers of the City of London, the vestry of any parish, or the board of works for any district within the limits of this Act may, within twenty-eight days after the receipt of the copy or copies of such part of such plan transmitted to them as aforesaid, if they have not made any objection to execute the flood works shown on such copy, or if they have made any such objection, within twenty-eight days after the receipt by them of the order of the *board (f)* made after consideration of such objection, give notice in writing to the

(*f*) **Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(*g*) **Temporary or movable dam.**—See also sec. 46 of the Met. Bd. Wks. (Various Powers) Act, 1882, *post*, p. 1258.

*board (h)* of their intention to execute to the satisfaction of the *board (h)* the flood works shown on such copy, and for the execution of which such commissioners, vestry, or district board are liable to provide, and thereupon such commissioners, vestry, or district board may proceed to execute such works in accordance with such copy, under the authority and with the powers by this Act conferred.

42 & 43 Vict.  
ch. cxviii.

12. Any owner or owners of premises who is or are liable to provide for the execution upon such premises of any flood works shown on any copy or copies of any part or parts of such plan transmitted to him or them as aforesaid, may within twenty-eight days after the receipt of the copy or copies of such part or parts of such plan as aforesaid, if he or they have not made any objection to execute the flood works shown on such copy or copies, or if he or they have made any such objection, within twenty-eight days after the receipt by him or them of the order of the *board (h)* made after consideration of such objection, give notice to the *board (h)* of his or their intention singly or jointly to execute to the satisfaction of the *board (h)* such works as shown on such copy or copies, and thereupon such owner or owners may, subject to the provisions of this Act, singly or jointly enter upon any such premises and proceed to execute such works in accordance with such copy or copies, under the authority and with the powers by this Act conferred.

Power to  
owner or  
owners liable  
to execute  
flood works.

13. If the Commissioners of Sewers of the City of London, or any vestry, district board, or any owner of premises, neglect during twenty-eight days after the receipt of the copy of any part of such plan as aforesaid, if they or he have not made any objection, to execute the flood works shown on such copy, or if they or he have made any such objection, during twenty-eight days after the receipt by them or him of the order of the *board (h)* made after consideration of such objection, neglect to give such notice as aforesaid to the board, or within twenty-eight days thereafter neglect to begin to execute any flood works shown on such copy, and for the execution of which such commissioners, vestry, district board, or owner are liable to provide, or fail to carry on or complete such works, when begun, with all reasonable despatch and to the satisfaction of the board, then and in every such case the *board (h)* may, subject to the provisions of this Act, cause the same to be executed, carried on, or completed, and may for such purpose themselves and by their officers, servants, and workmen enter upon such premises and do all such acts, matters, and things as may be necessary for the execution of such works.

Power to  
*board (h)* to  
execute flood  
works in case  
of default of  
Commissioners  
of Sewers of  
City of London,  
vestry, district  
board, or  
owner.

14. The *board (h)*, the Commissioners of Sewers of the City of London, the vestry of any parish, the board of works for any district, or any owner of premises, in the execution of any flood works, in accordance with the provisions of this Act, may carry the same through, along, across, or under any street, or through, along, across, or under any cellar or vault which may be under the pavement of any street, and into, through, along, across, upon, or under any lands, and may for such purpose enter upon any such cellar, vault, and lands, and any premises in the vicinity of or adjoining the same or connected therewith, compensation being made for any damage done thereby in manner provided by this Act.

Powers for  
execution of  
flood works.

15. Where for the purpose of executing any flood works in accordance with the provisions of this Act it is in the opinion of the *board (h)* necessary that the Commissioners of Sewers of the City of London, the vestry of any parish, the board of works for any district, or any owner of premises liable under this Act to provide for the execution of such works, should take and use any premises not vested in them or subject to their control or management, or of which they or he are or is not the owner, or that the board for the purpose of executing such works in place of them or him should take and use such last-mentioned premises, then and in every such case the *board (h)* may take and use any such last-mentioned premises which may be required for the purpose of executing such works, and the *board (h)* shall for such purpose have and may exercise all the powers of taking land conferred upon the *board (h)* by the principal Act in relation to the taking of lands for works for the purpose of the sewerage or drainage of the Metropolis.

Powers of  
*board (h)* to  
take lands.

For the purposes of notices required by the principal Act to be served upon owners or reputed owners of lands before applying for the consent of the Secretary of State to the taking of lands compulsorily, the term "owner" shall, in relation

(h) **Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

42 & 43 Vict. ch. cxviii. to premises to be taken for the purposes of this Act, have the same meaning as in the Lands Clauses Consolidation Act, 1845 (*i*).

8 & 9 Vict. c. 18.

When the *board* (*k*) have taken any premises under the authority of this Act, they may by writing under their seal authorise the Commissioners of Sewers, the vestry of any parish, the board of works for any district, and any owner to take or use the same for the execution of any flood works in accordance with the provisions of this Act, and thereupon such commissioners, vestry, district board, or owner may for such purpose take and use such premises or any of them, and shall in respect of the same have all and the same powers as though they or he were or was the board.

Power to construct flood works on the shores and bed of the river Thames.

**16.** For the purpose of executing any works under the authority of this Act, the *board* (*k*), the Commissioners of Sewers of the City of London, the vestry of any parish, the board of works for any district, and any owner of premises liable to execute flood works, may, subject to the provisions of this Act, construct any such works through, along, over, or under the bed and soil and banks and shores of the river Thames: Provided always, that no such work shall be constructed in or upon the bed or shore of the river Thames as defined by the Thames Conservancy Act, 1857 (*l*), except with the permission of the conservators of the said river, and under a licence to be granted by the said conservators in accordance with the provisions of the said last-mentioned Act.

20 & 21 Vict. ch. cxlvii.

Provision as to certain dock companies.

**17.** Notwithstanding anything in this Act, the following provisions shall apply and shall be the only provisions of this Act which shall apply to the execution of flood works in the case of or with reference to the following dock companies and their respective undertakings; that is to say, the London and Saint Katherine Docks Company, the Surrey Commercial Dock Company, the Millwall Dock Company, and the East and West India Docks Company:

- (a) If the *board* (*k*) are of opinion that it is necessary for the protection of any lands within the limits of this Act from floods or inundations caused by the overflow of the river Thames that the height or level of any bank of any such dock company should be raised, they may by notice in writing under the hand of the chairman or engineer for the time being of the *board* (*k*), to be served upon the secretary or left at the chief office of the company, require that the height or level of such bank shall be raised by the company to such an extent as the *board* (*k*) think necessary and shall specify in the notice; and if the company do not within one month after the service of the notice upon them as aforesaid give such notice to the *board* (*k*) as is herein-after mentioned, the company shall with all convenient speed raise the height or level of such bank to the extent specified in the notice.
- (b) Within the said period of one month the company may give notice in writing to the *board* that they consider the requirement of the *board* (*k*) to be unnecessary in whole or in part for the purpose of such protection as aforesaid, and that they desire that the question whether such requirement is or is not necessary shall be determined by arbitration, and thereupon, upon the application either of the company or the *board* (*k*), the Board of Trade may appoint a competent and impartial engineer as arbitrator to determine the question.
- (c) The arbitrator by his award may direct that the height or level of any bank specified in the notice of the *board* (*k*) shall be raised by the company to such an extent as he may consider necessary, and the company shall with all reasonable speed comply with any such direction of the arbitrator. If the arbitrator is of opinion that the requirements of the *board* (*k*) are unnecessary in whole or in part, he shall so certify. The award of the arbitrator shall be final and conclusive, and the costs of the arbitration shall be in his discretion.

(*i*) **Owner** is defined by sec. 3 of the Lands Clauses Consolid. Act, 1845, to be "understood to mean any person or corporation who, under the provisions of this or the special Act, would be entitled to sell and convey lands to the promoters of the undertaking."

(*k*) **Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (*8*). *ut*, vol. i.

(*l*) **Thames Conservancy Act, 1857.**—This Act is repealed and replaced by the Thames Conservancy Act, 1894. See note to sec. 3 (*xiii*) of the Loc. Govt. Act, 1888, *ante*, vol. i.



18. For the purpose of giving effect to the provisions of this Act, any engineer, surveyor, district surveyor, or other person duly authorised in writing by the *board* (*m*) or by the Commissioners of Sewers of the City of London, or by the vestry of any parish, or by the board of works for any district, or by any owner of premises liable to execute flood works, or the owner of such premises, may enter upon any premises upon which any works executed or to be executed by them or him in pursuance of this Act are or will be situate, for the purpose of inspecting or taking surveys of the same, at any time between the hours of nine o'clock in the forenoon and four o'clock in the afternoon; and if any person during such hours refuses to allow such engineer, surveyor, district surveyor, or other officer or person, or any such owner, to enter upon any such premises, or obstructs him in the making of such inspection or survey, such person shall be liable to a penalty not exceeding ten pounds, and to a further penalty not exceeding five pounds for every day after the first day during which he so continues to act in contravention of this Act.

42 & 43 Vict.  
ch. cxviii.

Power to  
inspect lands.

19. In order to preserve the navigation of the river Lee, the plan of any flood works to be constructed under the authority of this Act, through, along, over, or under the bed or soil or banks or shores of the river Lee within the limits of the jurisdiction of the Lee Conservancy Board (*n*) under the Lee Conservancy Act, 1868, which may interfere with the free navigation of the said river, shall be approved by the Lee Conservancy Board in writing under their common seal before such works are commenced, certifying that the works according to such plan will not interfere with the free navigation of the said river, and thereupon such works shall only be executed in accordance with such plan, and no alteration shall thereafter be made in such plan, except with the approval of the Lee Conservancy Board in writing under their common seal as aforesaid.

Flood works  
upon the  
shore of the  
river Lee to  
be approved  
by the Lee  
Conservancy  
Board.

31 & 32 Vict.  
ch. cliv.

20. Nothing in this Act contained shall extend or be construed to extend to prejudice or derogate from the rights of the Lee Conservancy Board, or to prohibit, defeat, alter, or diminish any power, authority, or jurisdiction which at the time of the passing of this Act the Lee Conservancy Board did or might lawfully claim, use, or exercise, so far as such rights, power, authority, or jurisdiction may be exercised, or for the preserving of the free navigation of the river Lee.

Saving rights  
of the Lee  
Conservancy  
Board.

21. Except in so far as may be necessary for the due execution of this Act, nothing in this Act contained shall affect, alter, abridge, or interfere with any of the rights or powers at the time of the passing of this Act vested in the Commissioners of Sewers for the levels of Havering, Dagenham, Ripple, Barking, East Ham, West Ham, Leyton, and Walthamstow, and for the respective borders and confines thereof near to the same, as the same are respectively standing, lying, running, and being in the respective counties of Essex, Middlesex, and Kent, and except in so far as the said rights and powers are varied by or are inconsistent with the provisions of this Act they shall continue in full force.

Saving rights  
of the  
Commissioners  
of Sewers for  
Havering and  
other levels.

#### *Maintenance of Banks.*

22. The bodies and persons by this Act liable to provide for the execution of flood works upon any premises shall respectively be liable to maintain and repair the banks upon the same, and shall for the purpose of such maintenance and repair, in accordance with any plan or specifications approved of by the *board* (*m*), have all and the same powers and be subject to all and the same conditions as are by the preceding provisions of this Act conferred and imposed upon them respectively with respect to the execution of flood works in accordance with plans by the *board* (*m*).

Maintenance  
and repair  
of banks.

23. From and after the passing of this Act, if any person make any alteration to any bank so as to affect the security of the premises upon which the same is situate, or of any other premises adjacent or near thereto, from flooding caused by the overflow of the river Thames, without the previous sanction in writing

Penalty for  
alteration of  
banks without  
consent of  
*board* (*m*).

(*m*) **Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(*n*) **Lee Conservancy Bd.**—As to the constitution and jurisdiction of this board, see note to sec. 3 (xiii) of the Loc. Govt. Act, 1888, *ante*, vol. i.

42 & 43 Vict.  
ch. cxviii.

Survey and  
repair of  
dangerous or  
insufficient  
banks and  
maintenance  
and repair of  
same.

of the *board (o)*, such person shall be liable to a penalty not exceeding ten pounds, and in the case of a continuing offence to a further penalty not exceeding ten pounds for every day after the first day after the making of such alteration until the same be sanctioned by the *board (o)* as aforesaid, or if the same is not so sanctioned until such bank be restored to its former condition to the satisfaction of the *board (o)*.

24. Whenever it is made known to the *board (o)* that any bank in any parish or in any district within the limits of this Act is out of repair, dangerous, or insufficient for the effectual protection of any premises within the limits of this Act from floods or inundations caused by the overflow of the river Thames, they shall require a survey of such bank to be made by the district surveyor or by some other competent surveyor, and it shall also be the duty of the district surveyor to make known to the *board (o)* any information he may receive with respect to any bank being in such state as aforesaid :

Upon completion of his survey such district or other surveyor shall certify to the *board (o)* his opinion as to the state of any such bank as aforesaid :

If such certificate is to the effect that such bank is not out of repair, dangerous, or insufficient for the purposes aforesaid, no further proceedings shall be had in respect thereof ; but

If it is to the effect that such bank is out of repair, dangerous, or insufficient for the purposes aforesaid, the *board (o)* shall cause notice thereof to be served upon the Commissioners of Sewers of the City of London, the vestry of any parish, or the board of works for any district, or owner of premises liable to execute flood works in relation thereto, specifying the flood works which are in their opinion necessary for repairing such bank, removing any cause of danger in relation thereto, or rendering the same sufficient for the purposes aforesaid (which works are in this Act referred to as "works of maintenance"), and transmitting therewith a plan showing the line and level of the same, and such sections, estimates, and other information relating to the same as they may think proper, and thereupon all the preceding provisions of this Act as to the giving notices to the *board (o)* in relation to the execution of such works, and to objections as to the mode of such execution, and to the execution of such works, shall extend and apply to the giving of notices to the *board (o)* in relation to the execution of such works of maintenance, and to objections as to the mode of such execution, and to the execution of such works of maintenance, in like manner in every respect as though such works of maintenance had been works shown on the plan referred to in such preceding provisions and prepared by the *board (o)* immediately after the passing of this Act as aforesaid.

#### Compensation.

Mode of  
ascertaining  
amount of  
compensation  
for damages  
caused by  
execution of  
flood works,  
&c.

25. Any person or body who claims compensation for any damage caused by the execution of any flood works under the authority of this Act, or in respect of any lands or any interest in lands taken or used for the purposes of or injuriously affected by the execution of flood works under the authority of this Act, may claim such compensation from the *board (o)* ; and if such person or body and the *board (o)* do not agree with respect to such claim, then and in every such case the validity of such claim and the amount of compensation (if any) payable in respect thereof shall, on the application of either party, be determined by arbitration by the standing arbitrator hereinafter referred to, subject to and in accordance with the provisions of this Act, and such provisions shall be in substitution for the provisions with respect to the tribunal for determining the settlement of questions of disputed compensation contained in the principal Act or any Act incorporated therewith, and the amount of compensation payable in respect of any such claim, when agreed upon or determined as aforesaid, shall be paid by the *board (o)* as though the same were compensation payable in respect of lands taken under the authority of the principal Act : Provided always, that the owner or occupier of any lands shall not be entitled to any compensation on account of the execution by himself or by any other person or body of any flood works for which such owner is in pursuance of this Act liable to provide upon any lands of which he is the owner or occupier unless

(o) *Board*.—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

after the execution of such works such lands are permanently injuriously affected thereby, and then only to the extent of such permanent injury. 42 & 43 Vict. ch. cxviii.

26. When any claim is made for compensation under the authority of this Act the standing arbitrator shall have power to decide upon the validity of such claim, and to determine what (if any) compensation shall be made to the person or body making such claim, and in adjudicating upon such claim the standing arbitrator shall have regard to the nature of the flood works with respect to which the claim has arisen, the manner in which the same have been executed, the benefit (if any) which has accrued or which may reasonably be expected to accrue to the person or body making such claim by reason of the execution of such works, and generally to all the circumstances of the case; and the standing arbitrator may, in determining the compensation to be paid for any lands or interest in lands taken or injuriously affected under the authority of this Act, according as he shall think fit, include in or exclude from such compensation an allowance in respect of the compulsory powers of this Act, and he may make such order as to the payment of the costs of such arbitration wholly or in part by the *board* (p) or the claimant, as he shall think just. Powers of standing arbitrator as to amount of compensation.

27. For the purpose of determining the validity of claims for compensation and the amount of compensation payable in respect of any claim declared to be valid by this Act directed to be settled by arbitration, there shall be an arbitrator, in this Act called the "standing arbitrator," appointed and acting as follows; that is to say— Appointment of standing arbitrator.

(1) The Secretary of State shall before the 31st day of December in the year 1879, and before the same day of December in every third succeeding year, by writing under his hand appoint a standing arbitrator and fix the remuneration to be paid to him, and every person so appointed shall continue in office for three years from such 31st day of December in such years respectively:

(2) Any standing arbitrator may be removed from his office by the Secretary of State by writing under his hand:

(3) If any standing arbitrator during his term of office dies or resigns or is removed from office, the Secretary of State shall in manner aforesaid, within one month after notice of his death, or resignation, or removal, appoint another person to be a standing arbitrator in his place, and the person so appointed shall continue in office as long only as the person in whose place he is appointed would have been entitled to continue in office:

(4) The remuneration of the standing arbitrator shall be paid by the *board* (p).

Before any standing arbitrator enters upon the duties of his office he shall in the presence of a justice make and subscribe the following declaration; that is to say—

"I, A.B., do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine all matters which may from time to time be referred to me under the provisions of the Metropolis Management (Thames River Prevention of Floods) Amendment Act, 1879.

A.B."

And if the standing arbitrator having made such declaration wilfully acts contrary thereto, he shall be guilty of a misdemeanour.

If any reference is pending before a standing arbitrator at the time when he resigns or goes out of office by effluxion of time, it shall nevertheless be proceeded with by him, and his decision shall have the like effect as if he had not resigned or gone out of office.

28. The standing arbitrator shall appoint a place and time for the hearing of any matter coming before him, and shall cause six days previous notice thereof to be given in such manner as he shall think proper, and at such place and time shall consider such matter and hear the parties appearing by themselves, their counsel, solicitors, or agents, and take evidence, and the standing arbitrator may administer an oath or an affirmation (where an affirmation in lieu of an oath would be admitted in a court of justice) to any person before hearing any evidence from him, and may admit the affidavit or declaration of any person. Proceedings before standing arbitrator.

The standing arbitrator, on the application of any party, may by summons

(p) **Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.



42 & 43 Vict.  
ch. excviii.

require the attendance before him of any person to be examined as a witness before him, and may, on the like application, by summons require any person to bring before him all books, papers, and writings in his possession, custody, or control relating to any matter to be inquired into by the standing arbitrator.

Every person so summoned shall attend the standing arbitrator and answer all questions touching the matter to be inquired into, and bring and produce all papers, books, and writings required according to the tenor of the summons: and any such person not attending in obedience to such summons, or refusing to answer such questions, or failing to bring or produce such papers, books, and writings as aforesaid, shall be liable, if the standing arbitrator shall so order, to a penalty not exceeding fifty pounds: Provided that any person so summoned shall not be bound to obey the summons unless a reasonable sum is first paid or tendered to him for his expenses.

If any person on examination on oath or affirmation before the standing arbitrator, or in any affidavit or declaration used before the standing arbitrator, wilfully gives false evidence, he shall be deemed guilty of perjury.

In case any party fail to appear at the time and place appointed for the hearing of any matter by the standing arbitrator, the standing arbitrator may proceed with the hearing of such matter in the absence of such party.

The decision of the standing arbitrator in any arbitration under this Act shall be final and binding upon the parties to such arbitration.

No award made by the standing arbitrator in accordance with this Act shall be set aside for any irregularity or informality.

#### *Financial.*

Payment of  
expenses of  
Commissioners  
of Sewers of  
City of London.

**29.** The expenses from time to time incurred by the Commissioners of Sewers of the City of London in the execution of any flood works under this Act, and any expenses which the *board* (*q*) may from time to time require payment of from the said commissioners as hereinafter provided, shall be paid by the said commissioners out of any rates which the said commissioners are authorised to direct to be made under any Act relating to the sewerage of the said City, or out of moneys borrowed on the security of such rates; and the said commissioners shall have full power from time to time to raise the amount of any such expenses, and the interest on any moneys borrowed as aforesaid, and any moneys required for the repayment thereof, by any such rate which they may be authorised to direct to be made as aforesaid or by any addition thereto.

Payment of  
expenses of  
vestries and  
district boards.

**30.** Any vestry or district board, for the purpose of paying any expenses from time to time incurred by them in the execution of any flood works under this Act, or any expenses which the *board* (*q*) may from time to time require payment of as hereinafter provided, shall from time to time raise the sums they may require by borrowing or by means of rates in every respect as if such expenses were expenses of such vestry or district board incurred in the execution by them of the principal Act in relation to the sewerage of their parish or district: and any such vestry or district board in any case in which it appears to them that such expenses have been incurred for the special benefit of any particular part of their parish or district, or have not been incurred for the equal benefit of the whole of their parish or district, may by order direct the sum or sums necessary for defraying such expenses, or any part thereof, to be levied in such part or exempt any part of such parish or district from the rates, or require a less rate to be levied thereon, as the circumstances of the case may require: and any such district board may refrain, where any entire parish or parishes ought in their judgment to be so exempt, from levying any money thereon, notwithstanding they may issue any order or orders for levying sums upon any other parish or parishes in their district.

All the provisions of the principal Act concerning orders by vestries and district boards requiring overseers of parishes to levy and pay sums required by vestries and district boards for defraying their expenses in relation to the sewerage of their parish or district as aforesaid, and for and in relation to the making of rates for such purposes, and for levying and enforcing payment of the same, shall extend and apply to and in the case of all sums required by

(*q*) **Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

vestries and district boards for defraying the expenses incurred by them in the execution of this Act, and for paying interest on moneys borrowed for the payment of such expenses and for repaying such moneys under the authority of this Act.

42 & 43 Vict.  
ch. cxviii.

31. Where the *board (r)* execute any flood works for the execution of which the Commissioners of Sewers of the City of London, the vestry of any parish, the board of works of any district, or any owner of premises were or was liable to provide, they may by order require payment of and recover the whole or such part as they may think just of the expenses incurred by them in respect of the execution of the same (exclusive of any moneys paid or any expenses incurred by them in respect of or in relation to compensation) from the said commissioners, from such vestry, board of works, or owner :

Power to  
*board (r)* to  
recover  
expenses in-  
curred by them  
in whole or  
in part.

Provided also, that if the said commissioners or any vestry, district board, or owner feel aggrieved by the amount of any sum required by order of the *board (r)* to be paid by them or him in respect of any such expenses so incurred by the *board (r)* as aforesaid, they or he may at any time within twenty-one days after service of any such order decline to pay such amount, and thereupon the amount of such sum shall be determined by arbitration by the standing arbitrator, who, upon the application of either party, shall, having regard to all the circumstances of the case, determine the amount of the sum to be paid to the *board (r)* in respect of such expenses, and shall make such order as to the payment of the costs of such arbitration as he shall think just, and the amount so fixed shall be paid to and may be recovered by the *board (r)*.

Where any sum is payable to the *board (r)* by any owner of premises in pursuance of this section, the *board (r)* shall, if required by such owner, accept payment of such sum by half-yearly instalments of such amount as will be sufficient to discharge the same, together with interest on so much thereof as shall for the time being remain unpaid, at the rate of five pounds per centum per annum, in thirty years from the date when such sum became payable by such owner, and thereupon the *board (r)* shall be entitled from time to time to require payment of such half-yearly instalments from the owner of such premises for the time being; and until all such instalments shall be fully paid off they shall be a charge upon such premises in priority of all other charges and incumbrances whatsoever, except the land tax and the property tax charged upon the owner, and shall from time to time be paid by the owner of such premises for the time being to and may be recovered by the *board (r)*.

32. Where any owner of lands has incurred any expenses in pursuance of this Act, the *board (r)*, on being satisfied that such expenses have been duly incurred, may by order under their seal grant to such owner a yearly rentcharge issuable out of the lands in respect whereof such expenses have been incurred and specified in such order, and thereupon such lands shall be subject to and charged with the payment of such rentcharge in priority of all other charges or incumbrances whatsoever (except the land tax and the property tax charged upon the owner), and such rentcharge shall be payable by the person who for the time being is the owner of such premises.

Rentcharge  
may be  
granted in  
respect of  
works.

Such rentcharge shall be personal estate, and shall begin to accrue from the day of completion of the works in respect of which such expenses shall in any such order be expressed to have been incurred, and shall be payable by equal half-yearly payments on the days mentioned in such order during a term not exceeding thirty years in such manner that the whole of such expenses, with the costs of preparing the said order, together with interest thereon respectively at the rate of five pounds per centum per annum on the sum from time to time remaining unpaid, shall be repaid at the end of the said term.

At any time before the expiration of the term during which any such instalments or any such rentcharge are or is payable, the person liable to pay the same may redeem such instalment or rentcharge by paying to the *board (r)* or to the person entitled to receive the expenses in respect of which such instalments are payable or such rentcharge was granted, or such part thereof respectively as may not have been defrayed by the half-yearly payments of such instalments or rentcharge respectively already made.

(*r*) **Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

42 & 43 Vict.  
ch. cxviii.

Whenever any annual payment by way of instalment or rentcharge is under this Act payable by the owner for the time being of any lands, and such owner for thirty days after notice requiring him to pay the same makes default in paying the same, then and in every such case the *board (s)* or the person entitled thereto shall be at liberty to require the occupier of such premises to pay the same to them or him, and in case any such occupier shall for fourteen days after notice in writing by the *board (s)* or person so entitled as aforesaid requiring him to make such payment make default therein, then and in every such case the *board (s)* or such person entitled as aforesaid may recover the amount due in respect of such rentcharge or instalments from such occupier in the same manner and with the like remedies in every respect as if they or he were overseers of the poor of the parish in which such premises are situate, and as if the amount due were poor rates in arrear in respect of such premises: Provided always, that where any payment is made by or recovered from any occupier under this section, he shall be entitled to deduct the amount of the same from any payment he may from time to time be liable to make to the owner until he be reimbursed such amount.

Power to  
apply moneys  
raised under  
other Acts to  
expenses in-  
curred by  
*board (s)* under  
this Act.  
Expenses of  
*board (s)*.

**33.** The *board (s)*, for the purpose of paying any expenses from time to time incurred by them under this Act, may apply any moneys raised or authorised to be raised by them under any Act of Parliament and not required for the purposes of that Act, and also any moneys which they may be authorised to raise for the purposes of this Act.

**34.** All expenses incurred by the *board (s)* in the execution by them of this Act, and not hereby otherwise provided for, shall be deemed to be expenses incurred by them in the execution of the principal Act, and shall be raised and paid accordingly.

As to liability  
in respect of  
certain flood  
works for  
which persons  
are liable by  
Act of Parlia-  
ment, by  
prescription,  
tenure, or  
otherwise by  
law.

**35.** Nothing in this Act contained shall exempt from liability to maintain and repair any bank any person or body who is by Act of Parliament, by prescription, or by reason of tenure, or otherwise by law liable to maintain or do any repairs to any bank: Provided always, that whenever any flood works have been executed by any body or person in pursuance of this Act affecting such bank, and in relief of the liability of the person or body liable to maintain or do any repair to such bank as aforesaid in respect of such maintenance and repair thereof, then and in every such case the person or body so liable as aforesaid shall pay to the body or person executing such works such sum as is hereafter in this section mentioned.

The sum to be paid by such person or body in respect of such works shall be such sum as may be agreed on between such person or body and the body or person executing such works as aforesaid, or in default of agreement as may be settled by arbitration by the standing arbitrator, who, upon the application of either party, shall settle the same, and shall in settling the same have regard to the expenses which the person or body by whom such sum is to be paid would have reasonably been liable to incur in respect of the maintenance or repair of such bank as aforesaid if such works had not been executed as aforesaid, and who shall make such order as to the payment of the costs of such arbitration as he shall think just.

Any moneys received by the *board (s)*, the Commissioners of Sewers of the City of London, the vestry of any parish, or the board of works of any district under the provisions of this section, shall be applied by them towards the payment of the expenses which they have incurred or may incur in the execution of works in pursuance of the provisions of this Act.

Where the expenses of any such works are made a charge by the *board (s)* upon any premises, any moneys received by the *board (s)* in respect of the same under the provisions of this section shall be applied by the *board (s)* in reduction of the amount of such charge.

#### Miscellaneous.

Recovery of  
expenses.

**36.** Any expenses recoverable by the *board (s)* under the authority of this Act may be recovered in manner prescribed by the principal Act with respect to

(s) **Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.



the recovery of expenses directed by that Act to be recovered in a summary manner (t). 42 & 43 Vict. ch. xcvi.

37. A notice or order under this Act may be wholly or partly in writing or in print, and may be served on the owner or occupier of any premises by leaving the same with the occupier of such premises or with some inmate of his abode, or if there is no occupier by putting up such notice, plan, or order on a conspicuous part of the building or premises to which the same relates, and it shall not be necessary to name the owner or occupier of such premises; nevertheless, when the owner of any such premises and his residence or that of his agent is known to or can with reasonable diligence be discovered by the party by whom or on whose behalf any notice or order is intended to be served, it shall be the duty of such party to send a copy of every such notice or order by the post in a registered letter addressed to the residence or last known residence of such owner or of his agent.

The term "notice" in this section shall include plan.

38. Nothing in this Act contained shall be taken to avoid any contract made between any landlord and tenant of any lands to which the provisions of this Act relate with respect to the execution of any flood works or of any other works for the protection of such lands or any lands adjoining or near the same from floods or inundations caused by the overflow of the river Thames, or with respect to the maintenance and repair of such lands, or of any house, building, or other erection thereupon, or with respect to any payments, rates, dues, and sums of money payable in respect of such lands, house, building, or other erection; and any moneys paid by any landlord or any tenant in pursuance of this Act, in relation to any matters with respect to which under any such contract such tenant or landlord is liable, may be recovered by such landlord as rent due by such tenant, or be deducted by such tenant from any rent from time to time due by him to such landlord.

39. Nothing in this Act contained shall extend or be construed to extend to prejudice or derogate from the estates or rights of the Conservators of the River Thames, or to prohibit, defeat, alter, or diminish any power, authority, or jurisdiction which at the time of the passing of this Act the said conservators did or might lawfully claim, use, or exercise.

40. Nothing contained in this Act shall extend to authorise the *board (u)* to take, use, enter upon, or interfere with any land, soil, or water, or any rights in respect thereof, belonging to Her Majesty, her heirs or successors, in right of the Duchy of Cornwall, without the consent in writing of some two or more of such of the regular officers of the said duchy or of such other persons as may be duly authorised under the provisions of the Duchy of Cornwall Management Act, 1863, section thirty-nine, to exercise all or any of the rights, powers, privileges, and authorities by the said Act made exerciseable or otherwise for the time being exerciseable in relation to the said duchy, or belonging to the Duke of Cornwall for the time being, without the consent of such duke, testified in writing under the seal of the Duchy of Cornwall, first had and obtained for that purpose, or to take away, diminish, alter, prejudice, or affect any property, rights, profits, privileges, powers, or authorities vested in or enjoyed by Her Majesty, her heirs or successors, in right of the Duchy of Cornwall, or in or by the Duke of Cornwall for the time being.

41. Nothing contained in this Act shall authorise the *board (u)*, the Commissioners of Sewers of the City of London, the vestry of any parish, the board of works for any district, or any owner of premises liable to execute flood works, to take, use, or in any manner interfere with any land or hereditaments, or any rights of whatsoever description, belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, without the consent in writing of the same commissioners, or one of them, on behalf of Her Majesty, first had and obtained for that purpose (which consent such commissioners are hereby respectively authorised to give); neither shall anything

Agreement between landlord and tenant not to be avoided.

Saving rights of the Conservators of the River Thames.

Saving rights of the Duchy of Cornwall.

26 & 27 Vict. c. 49.

Saving rights of the Crown.

(t) **Recovery of expenses.**—See the Metrop. Mant. Act, 1855, sec. 227, and note thereto, *ante*, vol. i.

(u) **Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

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Saving rights  
of the Crown  
in respect of  
property  
vested in the  
Crown or  
in the Com-  
missioners of  
Her Majesty's  
Works.

So much of  
sections  
69 and 70 of  
18 & 19 Vict.  
c. 120 as  
relates to flood  
works, &c. to  
cease to be in  
force.

Recovery and  
application of  
penalties.  
2 & 3 Vict.  
c. 71.

in the said Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

**42.** Nothing in this Act shall authorise the *board* (x) to exercise any power or control whatsoever in or over any lands or hereditaments which now are or hereafter shall be vested in the Crown or in the Commissioners of Her Majesty's Works and Public Buildings for public purposes or for the public service, or under the management of the same commissioners for the like purposes or service.

**43.** From and after the passing of this Act the provisions of sections sixty-nine and seventy of the principal Act, so far as they relate to the execution and maintenance of flood works and banks as defined by this Act by vestries and district boards, shall cease to be in force or to have effect.

**44.** Every penalty, fine, or forfeiture imposed by this Act, or for default or breach of any regulation, restriction, or condition made or imposed in pursuance thereof, may be sued for and recovered by the *board* (x), or any officer or servant by them authorised, as if it were a penalty or forfeiture imposed by the principal Act, and shall be paid to the *board* (x) and applied by them towards the expenses of carrying this Act into execution, anything contained in the Metropolitan Police Courts Act, 1839 (y), to the contrary notwithstanding.

#### METROPOLITAN BOARD OF WORKS (VARIOUS POWERS) ACT, 1882.

#### [45 Vict. ch. lvi.]

\* \* \* \* \*

County council  
may authorise  
continuance of  
existing  
temporary  
flood works.

42 & 43 Vict.  
ch. xcvi.

**46.** The *board* (x) instead of ordering any works of a fixed or permanent character under the provisions of the Metropolitan Management (Thames River Prevention of Floods) Amendment Act, 1879, may when on any premises any dam of a temporary or movable character for the protection of lands within the limits of the said Act from floods or inundations caused by the overflow of the river Thames, has been erected without the authority of the *board* (x) and the *board* (x) are of opinion that the erection of a dam of a fixed or permanent character on such premises would materially interfere with the transaction of business carried on upon the riverside of such premises, by order authorise and require the continuance and maintenance of such temporary or movable dam (z) in its existing condition, or with such alterations or modifications in the same as the *board* (x) may think expedient, subject to such regulations, restrictions, and conditions with respect to the fixing, removing, and maintenance of the same as the board may from time to time think necessary, and the board may by any such regulations, restrictions, and conditions authorise the temporary removal of any such dam during such times as they may think proper, and may prohibit the removal or alteration of the same except during such times and in such manner as to them may seem necessary or proper.

Where the *board* (x) have authorised the continuance and maintenance of any dam of a temporary or movable character, subject to any regulations, restrictions, or conditions, any person making default in the due observance, or committing a breach of any of the same, shall be liable to a penalty not less than twenty pounds and not exceeding fifty pounds, and in case of a continuing offence to a further penalty not less than twenty pounds and not exceeding fifty pounds for each day after the first during which such default or breach continues, but save as aforesaid such person shall not be liable to any penalty or damages, or to pay any compensation by reason or in respect of any such default or breach.

(x) **Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(y) **Metropolitan Police Courts Act, 1839.**—See note to sec. 26 of the Sale of Food and Drugs Act, 1878, *ante*, tit. "Food and Drugs."

(z) **Temporary or movable dam.**—See also the Metrop. Mant. (Thames River Prevention of Floods) Amend. Act, 1879, secs. 9 and 10, *ante*.

47. From and after the passing of this Act it shall not be necessary to transmit to any body or person more than one copy of any part of the plan or of any part of any of the plans from time to time prepared and constituting together the plan referred to in section seven of the Metropolis Management (Thames River Prevention of Floods) Amendment Act, 1879, or of any other plan which the *board* (a) may from time to time cause to be prepared in accordance with the said Act.

45 Vict. ch.  
lvi.

Amendment of  
42 & 43 Vict.  
ch. cxcviii.  
as to copies  
of plans.

48. Every penalty imposed by this Act upon any person making default in the due observance, or committing a breach of any regulations, restrictions, or conditions made by virtue of this Act with respect to the continuance and maintenance of any dam of a temporary or movable character, may be recovered by the *board* (a) or any officer or servant by them authorised in like manner and subject to the like right of appeal as if the same were a penalty imposed by the Metropolis Management (Thames River Prevention of Floods) Amendment Act, 1879, and the same shall be applied towards the same purposes as penalties under the said Act: Provided always that in any proceedings against any person for more than one penalty in respect of one or more breach or breaches of any provision of this Act, or of any byelaw made in pursuance of this Act, it shall be lawful to include in such summons all such penalties, and the charge for such summons shall not exceed two shillings.

Recovery of  
penalties.

\* \* \* \* \*

(a) **Board.**—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.



## THEATRES, MUSIC, AND DANCING.

|                                                                                                    |           |
|----------------------------------------------------------------------------------------------------|-----------|
| 41 & 42 Vict. c. 32 ("Metropolitan Management and Building Acts Amendment Act, 1878") .....        | page 1260 |
| 45 Vict. ch. lvi. ("Metropolitan Board of Works (Various Powers) Act, 1882"), secs. 45 and 48..... | 1264      |
| 25 Geo. 2, c. 36 ("Disorderly Houses Act, 1751"), secs. 2, 3, 4, 13, 14...                         | 1265      |
| 38 & 39 Vict. c. 21 ("Public Entertainments Act, 1875") .....                                      | 1267      |
| 6 & 7 Vict. c. 68 ("Theatres Act, 1843") .....                                                     | 1268      |

METROPOLIS MANAGEMENT AND BUILDING ACTS  
AMENDMENT ACT, 1878.

41 & 42 Vict. c. 32. An Act to amend the Metropolis Management Act, 1855, the Metropolitan Building Act, 1855, and the Acts amending the same respectively. [22nd July, 1878]

[Preamble. Rep. 57 & 58 Vict. c. 56. Statute Law Revision.]

## Preliminary.

Short title. 1. This Act may be cited for all purposes as the Metropolis Management and Building Acts Amendment Act, 1878.

Limits of Act. 2. This Act shall extend and apply to the Metropolis (*a*) as defined by the 18 & 19 Vict. c. 120. Metropolis Management Act, 1855.

Division of Act into three parts. 3. This Act shall consist of three parts.

## PART I.

4. [Definition of "roadway," "centre of the roadway," "prescribed distance." Repealed and replaced by the London Building Act, 1894, sec. 5 (3) (4) (5), *ante*, vol. i.]

Metropolis Management Acts and this now construed as one Act. 5. The Metropolis Management Act, 1855 (*b*), and the Acts amending the same, and part of this Act shall be construed together as one Act: Provided always, that nothing in this Act shall be held to limit or restrict the powers now vested in the Commissioners of Sewers of the City of London (*c*), or in any body or person elsewhere within the Metropolis, by an Act passed in the session of Parliament held in the fifty-seventh year of the reign of King George the Third, intituled "An Act for better paving, improving, and regulating the streets of the Metropolis and removing and preventing nuisances and obstructions therein" (*d*).

6—10. [Erection of houses at less than prescribed distance from centre of roadway. Streets formed for foot traffic only. Repealed and replaced by the London Building Act, 1894, *ante*, vol. i.]

11. Whenever it appears to the board (*e*) that any house or other place of public resort (*f*) within the Metropolis which was at the time of the passing of

Power to board (*e*) in certain cases to require proprietors of theatres and certain music halls in use at the time of the passing of this Act to remedy structural defects.

(*a*) Metropolis.—See Met. Man. Act, 1855, sec. 250, and schedules A., B., and C., *ante*, vol. i.

(*b*) Metropolis Man. Act, 1855.—*Ante*, vol. i.

(*c*) Commissioners of Sewers of City.—See note (*u*) to sec. 41 (4) (a) of the Loc. Govt. Act, 1888, *ante*, vol. i., as to the constitution and powers of these commissioners.

(*d*) 57 Geo. 3, ch. xxix., i.e., the Metropolitan Paving Act, 1817, *ante*, vol. i.

(*e*) Board, i.e., the Met. Bd. Wks. Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(*f*) House or place of public resort.—The expression "public building" is defined by sec. 5 (27) of the London Building Act, 1894, *ante*, vol. i., to mean, *inter alia*, a building used or constructed or adapted to be used as a public theatre, hall, concert, or ball room. Secs. 78—80 of that Act provide regulations for the construction of public buildings.

this Act authorised to be kept open for the public performance of stage plays, and which is kept open for such purpose, under the authority of letters patent from Her Majesty, her heirs and successors or predecessors, or of a licence granted by the Lord Chamberlain of Her Majesty's Household for the time being or by justices of the peace (*g*), or that any house, room, or other place of public resort within the Metropolis, containing a superficial area for the accommodation of the public of not less than five hundred square feet, which was at the time of the passing of this Act authorised to be kept open, and which is kept open, for dancing, music, or other public entertainment of the like kind, under the authority of a licence granted by any court of quarter sessions (*h*), is so defective in its structure that special danger from fire may result to the public frequenting the same, then and in every such case the *board* (*i*), may with the consent of the Lord Chamberlain in case of theatres under his jurisdiction, and of Her Majesty's Principal Secretary of State in all other cases, if in the opinion of the *board* (*i*) such structural defects can be remedied at a moderate expenditure, by notice in writing require the owner of such house, room, or other place kept open for any of the purposes aforesaid, under such authority as aforesaid, to make such alterations therein or thereto as may be necessary to remedy such defects, within a reasonable time to be specified in such notice; and in case such owner fails to comply with the requirements of such notice within such reasonable time as aforesaid, he shall be liable to a penalty (*k*) not exceeding fifty pounds for such default, and to a further penalty of five pounds for every day after the first day after the expiration of such reasonable time as aforesaid during which such default continues: Provided always, that any such owner may, within fourteen days after the receipt of any such notice as aforesaid, serve notice of appeal against the same upon the *board* (*i*), and thereupon such appeal shall be referred to an arbitrator to be appointed by Her Majesty's First Commissioner of Works at the request of either party, who shall hear and determine the same, and may, on such evidence as he may think satisfactory, either confirm the notice served by the *board* (*i*), or may confirm the same with such modifications as he may think proper, or refuse to confirm the same, and the decision of such arbitrator with respect to the requirements contained in any such notice, and the reasonableness of the same, and the persons by whom and the proportions in which the costs of such arbitration are to be paid, shall be final and conclusive and binding upon all parties.

In case of an appeal against any such notice, compliance with the requirements of the same may be postponed until after the day upon which such appeal shall be so decided as aforesaid, and the same, if confirmed in whole or in part, shall only take effect as and from such day.

12. The *board* (*i*), may from time to time make, alter, vary, and amend such regulations (*l*), as they may think expedient with respect to the requirements for the protection from fire of houses or other places of public resort within the Metropolis to be kept open for the public performance of stage plays, and of houses, rooms, or other places of public resort within the Metropolis containing a superficial area for the accommodation of the public of not less than five hundred square feet, to be kept open for public dancing, music, or other public entertainment of the like kind, under the authority of letters patent from Her Majesty, or of licences by the Lord Chamberlain of Her Majesty's Household, or by any justices of the peace (*g*), or by any court of quarter sessions (*h*), which may be granted for the first time after the passing of this Act; and may by such

41 & 42 Vict.  
c. 32.

Power to  
board to make  
regulations  
with respect to  
new theatres  
and certain  
new music  
halls for  
protection  
from fire.

(*g*) **Licence granted by Lord Chamberlain or justices.**—As to the jurisdiction of the Lord Chamberlain, see the Theatres Act, 1843, secs. 3 and 5 and note thereto, *post*. Outside his jurisdiction the licensing of houses or places for the public performance of stage plays in the Metropolis was transferred from the justices to the county council by the Loc. Govt. Act, 1888, sec. 7 (*a*), *ante*, vol. i.

(*h*) **Licence granted by court of quarter sessions.**—The licensing of houses and other places for music or for dancing throughout the Metropolis was transferred from quarter sessions to the county council by the Loc. Govt. Act, 1888, sec. 3 (*v*), 41 (1) (*b*), and 48 (2), *ante*, vol. i.

(*i*) **Board.**—See note (*e*) to sec. 11, *ante*.

(*k*) **Penalty.**—See sec. 23, *post*, as to the recovery of penalties.

(*l*) **Regulations.**—The regulations of the county council under this section now in force are dated 9th February, 1892.

41 & 42 Vict.  
c. 32.

regulations prescribe the requirements as to position and structure of such houses, rooms, or places of public resort which may, in the opinion of the *board (m)*, be necessary for the protection of all persons who may frequent the same against dangers from fires which may arise therein or in the neighbourhood thereof; provided that the *board (m)* may from time to time in any special case dispense with or modify such regulations, or may annex thereto conditions if they think it necessary or expedient so to do.

The *board (m)* shall, after the making, altering, varying, or amending of any such regulations, cause the same to be printed, with the date thereof, and a printed copy thereof shall be kept at the office of the *board (m)*, and all persons may at all reasonable times inspect such copy without payment, and the *board (m)* shall cause to be delivered a printed copy, authenticated by their seal, of all regulations for the time being in force to every person applying for the same, on payment by such person of any sum not exceeding five shillings for every such copy.

A printed copy of such regulations, dated and authenticated by the seal of the *board (m)*, shall be conclusive evidence of the existence and of the due making of the same in all proceedings under the same, without adducing proof of such seal or of the fact of such making.

From and after the making of any such regulations it shall not be lawful for any person to have or keep open any such house, room, or other place of public resort for any of the purposes aforesaid, unless and until the *board (m)* grant to such person a certificate (*n*) in writing under their seal, to the effect that such house, room, or other place was on its completion in accordance with the regulations made by the *board (m)* in pursuance of the provisions of this Act for the time being in force, and in so far as the same are applicable to such house or other place, and to the conditions (if any) annexed thereto by the *board (m)*.

In case any such house, room, or place of public resort is opened or kept open by any person for any of the purposes aforesaid, contrary to the provisions of this enactment, such person shall be liable to a penalty (*o*) not exceeding fifty pounds for every day on which such house or place of public resort is so kept open as aforesaid.

Provisional  
licence for  
new premises.

**13.** A person interested in any premises about to be constructed, or in course of construction, which are designed to be licensed and used within the Metropolis for the public performance of stage plays, or for public dancing, music, or other public entertainment of the like kind, may apply to the licensing authority (*p*) for the grant of a provisional licence in respect of such premises. The grant of such provisional licence shall, in respect of the discretion of the licensing authority and procedure, be subject to the same conditions as those applicable to the grant of a like licence which is not provisional. A provisional licence so granted shall not be of any force until it has been confirmed by the licensing authority; but the licensing authority shall confirm the same on the production by the applicant of a certificate by the *board (m)* that the construction of the premises has been completed in accordance with the regulations and conditions made by the *board (m)* as hereinbefore provided, and on being satisfied that no objection can be made to the character of the holder of such provisional licence (*q*).

## PART II.

**14—20.** [*Foundations and sites of buildings. Sale of dangerous structures. Repealed and replaced by the London Building Act, 1894, ante, vol. i.*]

(*m*) **Board.**—See note (*e*) on page 1260.

(*n*) **Certificate.**—Proceedings may be taken for keeping open a building for public music without having first obtained a certificate from the county council, notwithstanding that such building be not licensed under the Disorderly Houses Act, 1751, *post*, or the Theatres Act, 1843, *post*. *Reg. v. Hannay* (1891). 2 Q. B. 709; 60 L. J. M. C. 167.

(*o*) **Penalty.**—See sec. 23, *post*, as to the recovery of penalties.

(*p*) **Licensing authority.**—See notes (*g*) and (*h*) to sec. 11, *ante*.

(*q*) **Provisional licence.**—The language of this section is very similar to that of the Licensing Act, 1874 (37 & 38 Vict. c. 49), sec. 22. As to licences which are not provisional, see the Disorderly Houses Act, 1751, *post*, and the Theatres Act, 1843, *post*.



## PART III.

**21.** The architect of the board (*r*), and any other person authorised by the board (*r*) in writing under their seal, may, at all reasonable times after completion or during construction, enter and inspect any house, room, or other place kept open or intended to be kept open for the public performance of stage plays, or for public dancing, music, or other public entertainment of the like kind affected by any of the provisions of this Act, or of any regulations made in pursuance thereof; (*s*) . . . and if any person refuses to admit such architect, person, . . . or to afford him all reasonable assistance in such inspection, in every such case the person so refusing shall incur for each offence a penalty (*t*) not exceeding twenty pounds.

**22.** For the purpose of complying with the requirements of any notice or order served or made under the provisions of this Act (*u*) on any owner, builder, or person in respect of any house, building, or other erection, room, or place, such owner, builder, or person, his servants, workmen, and agents, may, after giving seven days' notice in writing to the occupier of such house, building, or other erection, room, or place, and on production of such notice or order, enter such house, building, or other erection, room, or place, and do all such works, matters, and things therein or thereto, or in connexion therewith, as may be necessary; and if any person refuses to admit such owner, builder, or person, or his servants or workmen or agents, or to afford them all reasonable assistance, such person shall incur for each offence a penalty (*t*) not exceeding twenty pounds.

**23.** Every penalty imposed by part one and part three of this Act may be recovered by summary proceedings (*x*) before any justice in like manner and subject to the like right of appeal as if the same were a penalty recoverable by summary proceedings under the Metropolis Management Act, 1855, and the Acts amending the same: (*y*) . . . Provided always, that in any proceedings against any person for more than one penalty in respect of one or more breach or breaches of any provision of this Act or of any byelaw made in pursuance of this Act, it shall be lawful to include in one summons all such penalties, and the charge for such summons shall not exceed two shillings.

**24.** Her Majesty's royal palaces, and all buildings, works, and ground excepted from the operation of the Metropolis Management Act, 1855, and the Acts amending the same, or of any of the said Acts (*z*), shall be excepted from the operation of the provisions of this Act which are to be construed with such Acts, and all exemptions from the provisions of any of the said Acts shall extend to such of the provisions of this Act as are to be construed as aforesaid with such Acts.

**25.** [*Exceptions from Metrop. Bldg. Acts extended to this Act. Rep. and replaced by the London Bldg. Act, 1894, sec. 201, ante, vol. i.*]

**26.** Nothing in this Act (*a*) . . . shall apply to the Inner Temple, the Middle Temple, Lincoln's Inn, Gray's Inn, Staple Inn, Furnival's Inn, or the close of the collegiate church of Saint Peter, Westminster.

**27.** Nothing contained in this Act (*a*) . . . shall apply to or shall authorise or empower the board, or any vestry, district board, or district surveyor, to take,

(*r*) **Board.**—See note (*r*) to sec. 11, *ante*.

(*s*) **Sec. 21.**—The omitted words empowered the district surveyor to enter and inspect buildings, and are repealed and replaced by the London Building Act, 1894, sec. 148, *ante*, vol. i.

(*t*) **Penalty.**—See sec. 23 as to recovery of penalties.

(*u*) **Notice or order.**—Sec. 22 is repealed by sec. 215 of the London Building Act, 1894, *ante*, vol. i., so far as it relates to any notice or order served or made under any provision of the present Act repealed by that Act.

(*x*) **Summary proceedings.**—See the Met. Man. Act, 1855, sec. 227 and note thereto, *ante*, vol. i.

(*y*) **Sec. 23.**—The omitted words provided for the recovery of penalties imposed by part ii. of this Act, and are repealed and replaced by the London Building Act, 1894, sec. 166, *ante*, vol. i.

(*z*) **Buildings, &c. excepted.**—See Met. Man. Act, 1855, secs. 240—245, and Met. Man. Am. Act, 1862, secs. 116 and 117, *ante*, vol. i.

(*a*) **Secs. 26 and 27.**—The words omitted from sec. 26 and line 1 of sec. 27 are "or in any byelaw thereunder," and are repealed by the London Building Act, 1894,

41 & 42 Vict.  
c. 32.

Power for architect and persons authorised by board to enter and inspect theatres and music halls.

Power to owners, &c. to enter houses, &c. to comply with notices or order.

Recovery of penalties.

18 & 19 Vict.  
c. 120.

Exceptions from Metropolis Management Acts extended to this Act.  
18 & 19 Vict.  
c. 120.

Act not to apply to the Inner and Middle Temple, &c.  
Saving rights of the Crown and the Duchy of Lancaster.

41 & 42 Vict.  
c. 32.

38 & 39 Vict.  
ch. clxxix.

use, or in any manner interfere with any land, soil, tenements, or hereditaments, or any rights of whatsoever nature, belonging to or enjoyed or exercisable by the Queen's most Excellent Majesty in right of her crown, or in right of her Duchy of Lancaster, without the consent in writing of the Commissioners . . . of Woods . . . or one of them, on behalf of Her Majesty, in right of her crown, first had and obtained for that purpose (which consent such commissioners are hereby respectively authorised to give), or without the consent in like manner of the chancellor of the said duchy, on behalf of Her Majesty, in right of her said duchy; neither shall anything contained in this Act, or in any byelaw thereunder made, extend to divest, take away, prejudice, diminish, or alter any estate, right, privilege, power, or authority vested in or enjoyed or exercisable by the Queen's Majesty, . . . in right of her crown, or in right of her said duchy; and nothing contained in part one of this Act shall apply to the extension of Savoy Street or the bridge which the chancellor and council of the said duchy are by the Metropolitan Board of Works (Various Powers) Act, 1875 (*b*), empowered to make and construct, or to any house or building within the precinct of the Savoy, or upon the land mentioned in section six of the last-mentioned Act, constructed or extended after the passing of this Act, in or abutting upon any road, passage, or way existing, formed, or laid out at the time of the passing of this Act.

## METROPOLITAN BOARD OF WORKS (VARIOUS POWERS) ACT, 1882.

[45 Vict. ch. lvi.]

\* \* \* \* \*

Board may  
require means  
of exit from  
theatres, &c.  
to be kept  
open.

45. Where any house or other place of public resort within the Metropolis which is for the time being authorised to be kept open for the public performance of stage plays is kept open for such purpose under the authority of letters patent from Her Majesty, her heirs and successors or predecessors, or of a licence granted by the Lord Chamberlain of Her Majesty's Household for the time being or by *justices of the peace* (*c*), or where any house, room, or other place of public resort within the Metropolis containing a superficial area for the accommodation of the public of not less than five hundred square feet which is for the time being authorised to be kept open is kept open for dancing, music, or other public entertainment of the like kind under the authority of a licence granted by any court of quarter sessions, the *board* (*d*) may serve a notice in writing upon the person by whom such house, room, or place of public resort is so kept open requiring him to comply with any such requirements as the *board* (*d*) may think expedient with respect to all or any of the matters following (that is to say):—

The times during which the doors or any of the doors affording means of exit from any such house, room, or place of public resort shall be kept open during the times fixed for the admission of the public to or the presence of the public in or the departure of the public from such house, room, or place of public resort;

The conditions under which such doors or any of such doors may be closed during the times aforesaid, and the persons to be charged with the duty of closing and opening the same;

The nature of the fastenings to be used for the purpose of keeping such doors or any of such doors closed during the times aforesaid;

sec. 215, *ante*, vol. i. The other words omitted from sec. 27 are obsolete, and are repealed by 56 & 57 Vict. c. 56 (Stat. Law Rev.).

(*b*) **Metropolitan Bd. Wks. (Various Powers) Act, 1875** (38 & 39 Vict. ch. clxxix). This Act authorised the Met. Bd. Wks. to make certain improvements in and near the precinct of the Savoy, &c. Sec. 6 empowered the board to surrender two strips of land in the liberty of the Savoy to the Duchy of Lancaster.

(*c*) **Justices of the peace.**—Now the county council. Loc. Govt. Act, 1888, sec. 7 (*a*), *ante*, vol. i.

(*d*) **Board.**—Now the county council. Loc. Govt. Act, 1888, sec. 40 (*8*), *ante*, vol. i.

The notices to be posted in such house, room, or place of public resort, specifying the means of exit therefrom. 45 Vict. ch. lvi.

In case any such house, room, or place of public resort is kept open by any person for any of the purposes aforesaid, while all or any the requirements of such notice are not complied with, such person shall be liable to a penalty not exceeding ten pounds for every day on which such house, room, or place of public resort is so kept open after service of such notice.

Any person authorised by the *board* (e) in writing may at any time during the times fixed for the admission or presence of the public and at all other reasonable times enter and inspect any such house, room, or place of public resort for the purpose of ascertaining whether any such notice should be served by the *board* (e) with respect to such house, room, or place of public resort, or whether the requirements of any such notice are complied with, and if any person refuses to admit any person so authorised or to afford him all reasonable assistance in such inspection, then in every such case the person so refusing shall incur for each offence a penalty not exceeding twenty pounds.

\* \* \* \* \*

48. Every penalty imposed by this Act upon any person with reference to any house, room, or place of public resort may be recovered by summary proceedings before any justice in like manner and subject to the like right of appeal as if the same were a penalty recoverable by summary proceedings under the Metropolis Management Act, 1855, and the Acts amending the same (f); . . . Provided always that in any proceedings against any person for more than one penalty in respect of one or more breach or breaches of any provision of this Act or of any byelaw in pursuance of this Act, it shall be lawful to include in one summons all such penalties, and the charge for such summons shall not exceed two shillings. Recovery of penalties.

### DISORDERLY HOUSES ACT, 1751 (g).

25 Geo. 2, c. 36. An Act for the better preventing Thefts and Robberies, and for regulating Places of Public Entertainment, and punishing Persons keeping Disorderly Houses.

1. [Rep. by 30 & 31 Vict. c. 59. *Statute Law Revision*.]

2. And whereas the multitude of places of entertainment for the lower sort of people is another great cause of thefts and robberies, as they are thereby tempted to spend their small substance in riotous pleasures, and in consequence are put on unlawful methods of supplying their wants and renewing their pleasures: In order, therefore, to prevent the said temptation to thefts and robberies, and to correct as far as may be the habit of idleness which is become too general over the whole kingdom, and is productive of much mischief and inconvenience: Be it enacted by the authority aforesaid, that from and after the first day of December one thousand seven hundred and fifty-two any house, room, garden, or other place kept for public dancing, music, or other public entertainment of the like kind (h), in the cities of London and Westminster, or within twenty Unlicensed places of public entertainment deemed disorderly houses.

(e) **Board.**—See note (d) on p. 1264.

(f) **Summary proceedings.**—See the Met. Man. Act, 1855, sec. 227, *ante*, vol. i.

(g) **Short title.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(h) **Place for public dancing, music, &c.**—The constant or frequent use of a room in a licensed hotel or tavern for music or dancing, to which the public are admitted, whether payment be required or not, comes within the statute, even though the room be not exclusively reserved for that purpose. *Bellis v. Beal*, 2 Esp. 592; *Green v. Botheroyd*, 3 C. & P. 471; *Gregory v. Puffs*, 6 C. & P. 271; 1 M. & R. 313; *Frailing v. Messenger*, 31 J. P. 423; 16 L. T. (N. S.) 494. So does a skating rink where music is played. *Reg. v. Tucker*, 2 Q. B. D. 417; 46 L. J. M. C. 197. A house to which the public are admitted for the purpose of dancing themselves requires a licence. *Clarke v. Searle*, 1 Esp. 25. But an ordinary dancing school to which the public are not admitted indiscriminately does not. *Bellis v. Burghall*, 2 Esp. 722. There must be something habitual about the use of the place for music and dancing, and it must be open to the public, either gratuitously or on payment. *Marks v. Benjamin*,



25 Geo. 2.  
c. 36.

Constables  
may enter and  
seize all  
persons found  
therein.

Person keeping  
the same to  
forfeit £100.

Licensed  
houses to have  
an inscription  
over them ;

miles thereof (*i*), without a licence had for that purpose from the last preceding Michaelmas *quarter sessions of the peace* (*k*) to be holden for the county, city, riding, liberty, or division in which such house, room, garden, or other place is situate (who are hereby authorised and empowered to grant such licences (*l*) as they in their discretion shall think proper (*m*)), signified under the hands and seals of four or more of the *justices* (*n*) there assembled, shall be deemed a disorderly house or place ; and every such licence shall be signed and sealed by the said *justices* (*n*) in open court, and afterwards be publicly read by the *clerk of the peace* (*o*) together with the names of the justices subscribing the same ; and no such licence shall be granted at any adjourned sessions, nor shall any fee or reward be taken for any such licence ; and it shall and may be lawful to and for any constable or other person, being thereunto authorised by warrant under the hand and seal of one or more of His Majesty's justices of the peace of the county, city, riding, division, or liberty where such house or place shall be situate, to enter such house or place, and to seize every person who shall be found therein, in order that they may be dealt with according to law ; and every person keeping such house, room, garden, or other place (*p*), without such licence as aforesaid, shall forfeit the sum of one hundred pounds (*q*) to such person as will sue for the same, and be otherwise punishable as the law directs in cases of disorderly houses.

**3.** Provided always, and it is hereby further enacted by the authority aforesaid, that, in order to give public notice what places are licensed pursuant to this Act, there shall be affixed and kept up in some notorious place over the door or entrance of every such house, room, garden, or other place kept for any of the said purposes, and so licensed as aforesaid, an inscription (*r*) in large capital letters in the words following ; *videlicet*, LICENSED PURSUANT TO ACT OF PARLIAMENT OF THE TWENTY-FIFTH OF KING GEORGE THE

5 M. & W. 565 ; 3 Jur. 1194. Where a room in a public house was let to a person for a particular festival, for the entertainment of his friends with music and dancing, it was held that there had been no infringement of the statute. *Shutt v. Lewis*, 5 Esp. 128. A theatre licensed for stage plays, in which a concert was given upon one day in the year, was held not to be a house kept for public music within the meaning of the Act. *Syers v. Conquest*, 28 L. T. (N. S.) 402 ; 21 W. R. 524. Where music or dancing is not the principal part of an entertainment, or of the purpose for which the place is used, but is merely a subsidiary incident, a licence is not required. *Fay v. Bignell*, 1 C. & E. 112 ; *Hall v. Green*, 9 Ex. 247 ; and *Guaglieni v. Matthews*, 6 B. & S. 474 ; 34 L. J. M. C. 116, as explained in *Reg. v. Tucker*, *supra*.

(*i*) **Within twenty miles.**—Secs. 2 and 3 are repealed, so far as relates to the administrative county of Middlesex, by the Music and Dancing Licences (Middlesex) Act, 1894 (57 & 58 Vict. c. 15), sec. 2 (12).

(*k*) **Quarter sessions.**—Now the county council. Loc. Govt. Act, 1888, sec. 3 (v), *ante*, vol. i. ; and see note thereto. The county council has no power to administer an oath. *Ib.*, sec. 78 (2) (b).

(*l*) **Such licences.**—This Act extends only to music and dancing licences, and not to dramatic performances. *Levy v. Yates*, 8 A. & E. 129 ; 3 N. & P. 249. As to licences for the latter, see the Theatres Act, 1843, *post*.

(*m*) **As they in their discretion think proper.**—A licence may be granted for one purpose only, e.g., music, and the keeper of a house with a music licence only is liable if he permit public dancing. *Brown v. Nugent*, L. R. 7 Q. B. 588 ; 41 L. J. M. C. 166.

(*n*) **Justices.**—Now county councillors. Loc. Govt. Act, 1888, sec. 3 (v), *ante*, vol. i.

(*o*) **Clerk of the peace.**—Now the clerk of the county council. Loc. Govt. Act, 1888, secs. 3 (v) and 83 (6), *ante*, vol. i.

(*p*) **Every person keeping such . . . place.**—Where a professor of dancing was allowed the use of a room in a public house, the public being admitted for the purpose of dancing on payment to the professor, it was held that the publican was rightly convicted. *Archer v. Willingrace*, 4 Esp. 185. It is immaterial whether the money is paid to or for the benefit of the person keeping such place, but such room or place must be used for the purpose of music or dancing to his knowledge. *Ib.*, *Marks v. Benjamin*, *supra*.

(*q*) **Penalty.**—Where music and dancing were carried on every evening in a tavern it was held that the penalty was not incurred from day to day, and that only one penalty could be recovered during the same licensing year. *Garrett v. Messenger*, L. R. 2 C. P. 583 ; 36 L. J. C. P. 337.

(*r*) **Inscription.**—Proof that there is nothing painted on the house denoting that it is licensed under the Act is sufficient *prima facie* evidence, in an action for the penalty, that it is unlicensed. *Gregory v. Tuffa*, *supra*.

SECOND; and that no such house, room, garden, or other place, kept for any of the said purposes, although licensed as aforesaid, shall be open for any of the said purposes before the hour of *five in the afternoon* (s); and that the affixing and keeping up of such inscription as aforesaid, and the said limitation or restriction in point of time, shall be inserted and made conditions of every such licence; and in case of any breach of either of the said conditions such licence shall be forfeited, and shall be revoked by the *justices of peace* (t) in their next *general or quarter sessions* (t), and shall not be renewed, nor shall any new licence be granted to the same person or persons, or any other person on his or their or any of their behalf, or for their use or benefit, directly or indirectly, for keeping any such house, room, garden, or other place, for any of the purposes aforesaid.

25 Geo. 2,  
c. 36.

and not be open before five in the evening. On breach of either of the said conditions the licence to be revoked.

4. Provided always, that nothing in this Act contained shall extend or be construed to extend to the Theatres Royal in Drury Lane and Covent Garden, or the theatre commonly called the King's Theatre, in the Haymarket, or any of them, nor to such performances and public entertainments as are or shall be lawfully exercised and carried on under or by virtue of letters patents, or licence of the Crown, or the licence of the Lord Chamberlain of His Majesty's Household, anything herein contained notwithstanding.

The theatres and other places licensed by the Crown or Lord Chamberlain excepted out of this Act.

5—10. [*Bawdy, gaming, and disorderly houses. Ante, p. 793.*]

11—12. [*Rep. 30 & 31 Vict. c. 59. Statute Law Revision.*]

13. Any person entitled to any of the forfeitures by this Act imposed may sue for the same by action of debt in any of His Majesty's courts of record at Westminster, in which it shall be sufficient to declare that the defendant is indebted to the plaintiff in the sum of \_\_\_\_\_, being forfeited by an Act intituled "An Act for the better preventing Thefts and Robberies, and for regulating Places of Public Entertainment, and punishing Persons keeping Disorderly Houses"; and the plaintiff, if he recover in any such action, shall have his full costs.

Recovery of forfeitures.

Full costs.

14. Provided, that no action shall be brought by virtue of this Act unless the same shall be commenced within the space of six calendar months after the offence committed.

Limitation of actions.

15. [*Rep. 30 & 31 Vict. c. 59. Statute Law Revision.*]

## PUBLIC ENTERTAINMENTS ACT, 1875.

38 & 39 Vict. c. 21. An Act for amending the Law relating to Houses of Public Dancing, Music, or other Public Entertainment of the like kind, in the Cities of London and Westminster. [14th June, 1875]

[*Preamble. Rep. by 56 & 57 Vict. c. 54. Statute Law Revision.*]

1. Section three of the recited Act shall be construed as if, instead of the proviso "that no such house, room, garden, or other place kept for any of the said purposes, although licensed as aforesaid, shall be open for any of the said purposes before the hour of five in the afternoon," there were substituted the proviso "that no such house, room, garden, or other place kept for any of the said purposes, although licensed as aforesaid, shall be open for any of the said purposes before the hour of noon."

Amendment of sec. 3 of 25 Geo. 2, c. 36.

Provided, that if on any special occasion an occasional licence of exemption shall have been granted under the twenty-ninth section of the Licensing Act, 1872 (u), in respect of any house, room, garden, or other place licensed under the

(s) **Five in the afternoon.**—Now the hour of noon. Public Entertainments Act, 1875, sec. 1, *supra*.

(t) **Justices of the peace. Quarter sessions.**—See notes to sec. 2, *supra*.

(u) **Licensing Act, 1872** (35 & 36 Vict. c. 94).—Sec. 26 (1) and (2) and sec. 29 of this Act empowers the Commissioner of Police of the Metropolis in the metropolitan police district, and the Commissioner of City Police in the City of London, to grant occasional licences exempting any licensed victualler or keeper of a refreshment house from the provisions of that Act relating to the closing of premises during certain hours.

38 & 39 Vict. c. 21. recited Act, no penalty or forfeiture shall be incurred for contravention of section three of the recited Act, as hereby amended, on account of such house, room, garden, or other place being kept open for any of the purposes aforesaid on such special occasion from midnight until the hour specified in such occasional licence as the hour for closing.

2. [*Rep. 56 & 57 Vict. c. 54. Statute Law Revision.*]

Short title.

3. This Act may be cited as the Public Entertainments Act, 1875.

## THEATRES ACT, 1843 (x).

6 & 7 Vict. c. 68. An Act for regulating Theatres.

[22nd August, 1843]

1. [*Repealed by 37 & 38 Vict. c. 96. Statute Law Revision.*]

All theatres for the performance of plays must be licensed.

2. It shall not be lawful for any person to have or keep any house or other place (y) of public resort in Great Britain, for the public performance of stage plays (z), without authority by virtue of letters patent from Her Majesty, her heirs and successors, or predecessors, or without licence from the Lord Chamberlain of Her Majesty's Household for the time being, or from the *justices of the peace* (a) as hereinafter provided; and every person who shall offend against this enactment shall be liable to forfeit such sum as shall be awarded by the court in which or the justices by whom he shall be convicted, not exceeding twenty pounds for every day on which such house or place shall have been so kept open by him for the purpose aforesaid, without legal authority.

What licences shall be granted by the Lord Chamberlain.

3. The authority of the Lord Chamberlain for granting licences shall extend to all theatres (not being patent theatres) within the parliamentary boundaries of the cities of London and Westminster, and of the boroughs of Finsbury and Marylebone, the Tower Hamlets, Lambeth, and Southwark (b), and also within those places where Her Majesty, her heirs and successors, shall, in their royal persons,

(x) **Short title.**—The above short title is authorised by the Short Titles Act, 1896 (59 & 60 Vict. c. 14).

(y) **House or other place.**—A travelling booth used for theatrical performances does not come within the section. *Davys v. Douglas*, 4 H. & N. 180; 28 L. J. M. C. 193. But see sec. 11, *infra*, and note thereto. Where a person hired a room for six nights, at which he gave theatrical representations, charging for admission, it was held that he could not be convicted of "having or keeping" an unlicensed theatre, though he was liable under sec. 11, *infra*. *Reg. v. Rosenthal*, 7 B. & S. 124; 35 L. J. M. C. 78. The owner and occupier of an unlicensed building, which he gratuitously allowed to be used on a few occasions for the performance of stage plays, to which the public were admitted on payment, for the benefit of a charity, was held to have been rightly convicted under the present section. *Shelley v. Bethell*, 12 Q. B. D. 11; 53 L. J. M. C. 16.

(z) **Stage plays.**—For the meaning of this expression, see sec. 23, *post*, and note thereto.

(a) **Justices.**—Now the county council. Loc. Govt. Act, 1888, sec. 7 (a), *ante*, vol. i. The county council may delegate its powers in respect of the licensing of houses for the public performance of stage plays either to a committee of its own body or to the justices of the county sitting in petty sessions. *Ib.*, sec. 28 (2).

(b) **Limits of Lord Chamberlain's authority.**—At the time of the passing of this Act the following were the parliamentary boundaries of the cities and boroughs above referred to, which now form the area of the Lord Chamberlain's jurisdiction:—

**Finsbury:** The several parishes of St. Luke, St. George the Martyr, St. Giles-in-the-Fields, St. George, Bloomsbury, St. Mary, Stoke Newington, and St. Mary, Islington; the several liberties or places of Saffron Hill, Hatton Garden, Ely Rents, Ely Place, The Rolls, Glasshouse Yard, and the Charterhouse; Lincoln's Inn and Gray's Inn, the parish of St. James and St. John, Clerkenwell, except that part thereof which is situate to the north of the parish of Islington; those parts of the respective parishes of St. Sepulchre and St. Andrew, Holborn, and of Furnival's Inn and Staple Inn respectively, which are situated without the liberty of the City of London.

**London:** The whole space contained within the exterior boundaries of the liberties of the City of London, including the Inner Temple and the Middle Temple.

**Marylebone:** The several parishes of St. Mary-le-bone, St. Pancras, and Paddington.



occasionally reside : Provided always, that, except within the cities and boroughs aforesaid, and the boroughs of New Windsor in the county of Berks, and Brighthelmston in the county of Sussex, licences for theatres may be granted by the *justices* (c) as hereinafter provided, in those places in which Her Majesty, her heirs and successors, shall occasionally reside ; but such licences shall not be in force during the residence there of Her Majesty, her heirs and successors ; and during such residence it shall not be lawful to open such theatres as last aforesaid (not being patent theatres) without the licence of the Lord Chamberlain.

6 & 7 Vict.  
c. 68.

4. [*Fee for Lord Chamberlain's licence.*]

5. The *justices of the peace* (c) within every county, riding, division, liberty, cinque port, city, and borough in Great Britain beyond the limits of the authority of the Lord Chamberlain (d) in which application shall have been made to them for any such licence as is hereinafter mentioned, shall, within twenty-one days next after such application shall have been made to them in writing signed by the party making the same, and countersigned by at least two *justices* acting in and for the division within which the property proposed to be licensed shall be situate, and delivered to the *clerk to the said justices* (e), hold a special session in the division, district, or place for which they usually act, for granting licences to houses for the performance of stage plays, of the holding of which session seven days' notice shall be given by their clerk to each of the *justices* (c) acting within such division, district, or place ; and every such licence shall be given (f) under the hands and seals of four or more of the *justices* (c) assembled at such special session, and shall be signed and sealed in open court, and afterwards shall be publicly read by the clerk, with the names of the *justices* (c) subscribing the same.

Licences may  
be granted by  
county  
council.

6. For every such licence granted by the *justices* a fee, not exceeding five shillings for each calendar month during which the theatre is licensed to be kept open, according to such scale of fees as shall be fixed by the *justices* (c), shall be paid to the *clerk of the said justices* (e).

Fee for county  
council's  
licence.

7. No such licence for a theatre shall be granted by the Lord Chamberlain or *justices* (c) to any person except the actual and responsible manager for the time being of the theatre in respect of which the licence shall be granted ; and the name and place of abode of such manager shall be printed on every play bill announcing any representation at such theatre ; and such manager shall become bound himself in such penal sum as the Lord Chamberlain or *justices* (c) shall require, being in no case more than five hundred pounds, and two sufficient sureties, to be approved by the said Lord Chamberlain or *justices* (c), each in such penal sum as the Lord Chamberlain or *justices* (c) shall require, being in no case more than one hundred pounds, for the due observance of the rules which shall be in force at any time during the currency of the licence for the regulation of

To whom  
licences shall  
be granted.

*Tower Hamlets* : The several divisions of the liberty of the Tower, and the Tower Division of Ossulston hundred.

*Westminster* : The old city and liberties of Westminster, and the Duchy liberty.

*Lambeth* : The parish of St. Mary, Newington, the parish of St. Giles, Camberwell, except the manor and hamlet of Dulwich, and also such part of the parish of Lambeth as is situate to the north of the line hereinafter described, including the extra-parochial space encompassed by such part.

From the point at which the road from London to Dulwich by Red Post Hill leaves the road from London over Herne Hill in a straight line to St. Matthew's Church at Brixton, thence in a straight line to a point in the boundary between the respective parishes of Lambeth and Clapham one hundred and fifty yards south of the middle of the carriage-way along Acre Lane.

*Southwark* : The old borough of Southwark, including the Mint and manor of Suffolk ; the several parishes of Rotherhithe, Bermondsey, and Christ Church ; and the Clink liberty of the parish of St. Saviour. *Parliamentary Boundaries Act, 1832* (2 & 3 Will. 4, c. 64), sched. O., divs. 22 and 23.

(c) *Justices*.—Now the county council. *Loc. Govt. Act, 1888*, sec. 7 (a), *ante*, vol. i.

(d) *Limits of Lord Chamberlain's authority*.—See note (b) on page 1268.

(e) *Clerk of the justices*.—Now the clerk of the county council. *Loc. Govt. Act, 1888*, sec. 7 (a) and sec. 83, sub-secs. (6) and (11), *ante*, vol. i.

(f) *Licence shall be given*.—The county council may, in the exercise of their discretion, impose terms upon the grant of a theatre licence, e.g., that the grantee shall undertake not to apply for an excise licence. *Reg. v. West Riding of Yorkshire County Council* (1896), 2 Q. B. 386 ; 65 L. J. M. C. 136.

6 & 7 Vict.  
c. 68.

such theatre, and for securing payment of the penalties which such manager may be adjudged to pay for breach of the said rules, or any of the provisions of this Act.

8. [*Rules for the theatres under the control of the Lord Chamberlain.*]

Rules for  
enforcing order  
in the  
theatres  
licensed by  
the county  
council.

9. The said *justices of the peace* (g) at a special licensing session or at some adjournment thereof, shall make suitable rules for ensuring order and decency at the several theatres licensed by them within their jurisdiction, and for regulating the times during which they shall severally be allowed to be open, and from time to time, at another special session, of which notice shall be given as aforesaid, may rescind or alter such rules; and it shall be lawful for any one of Her Majesty's principal Secretaries of State to rescind or alter any such rules, and also to make such other rules for the like purpose, as to him shall seem fit; and a copy of all rules which shall be in force for the time being shall be annexed to every such licence; and in case any riot or breach of the said rules in any such theatre shall be proved on oath before any two justices usually acting in the jurisdiction where such theatre is situated, it shall be lawful for them to order that the same be closed for such time as to the said justices shall seem fit; and while such order shall be in force the theatre so ordered to be closed shall be deemed an unlicensed house.

10. [*Proviso for the universities of Oxford and Cambridge.*]

Penalty on  
persons  
performing in  
unlicensed  
places.

11. Every person who for hire shall act or present, or cause, permit, or suffer to be acted or presented, any part in any stage play, in any place not being a patent theatre or duly licensed as a theatre (h), shall forfeit such sum as shall be awarded by the court in which or the justices by whom he shall be convicted, not exceeding ten pounds for every day on which he shall so offend.

12. [*No new plays or additions to old ones to be acted in any theatre in Gt. Britain until submitted to the Lord Chamberlain.*]

13. [*Power to Lord Chamberlain to charge fees for examination of plays, &c.*]

14. [*Lord Chamberlain may forbid any play anywhere in Great Britain.*]

Penalty for  
acting plays  
before they  
are allowed  
or after they  
have been  
disallowed.

15. Every person who for hire shall act or present, or cause to be acted or presented, any new stage play, or any act, scene, or part thereof, or any new prologue or epilogue, or any part thereof, until the same shall have been allowed by the Lord Chamberlain, or which shall have been disallowed by him, and also every person who for hire shall act or present, or cause to be acted or presented, any stage play, or any act, scene, or part thereof, or any prologue or epilogue, or any part thereof, contrary to such prohibition as aforesaid, shall for every such offence forfeit such sum as shall be awarded by the court in which or the justices by whom he shall be convicted, not exceeding the sum of fifty pounds; and every licence (in case there be any such) by or under which the theatre was opened, in which such offence shall have been committed, shall become absolutely void.

What shall be  
evidence of  
acting for hire.

16. In every case in which any money or other reward shall be taken or charged, directly or indirectly, or in which the purchase of any article is made a condition for the admission of any person into any theatre to see any stage play, and also in every case in which any stage play shall be acted or presented in any house, room, or place in which distilled or fermented exciseable liquor shall be sold, every actor therein shall be deemed to be acting for hire.

Proof of  
licence in  
certain cases  
to lie on the  
party accused.

17. In any proceedings to be instituted against any person for having or keeping an unlicensed theatre, or for acting for hire in an unlicensed theatre, if it shall be proved that such theatre is used for the public performance of stage plays, the burden of proof that such theatre is duly licensed or authorised shall lie on the party accused, and until the contrary shall be proved such theatre shall be taken to be unlicensed.

18. [*Repealed by 37 & 38 Vict. c. 96. Statute Law Revision.*]

(g) *Justices.*—Now the county council. Loc. Govt. Act, 1888, sec. 7 (a), *ante*, vol. i.  
(h) *Acting in unlicensed places.*—A person who causes a stage play to be acted for hire in an unlicensed travelling booth or theatre is liable to be convicted under this section. *Fredericks v. Pague*, 1 H. & C. 584; 32 L. J. M. C. 14; *Tarling v. Fredericks*, 28 L. T. (N. S.) 814; 21 W. R. 785; though apparently he cannot be convicted under sec. 2. *Duveys v. Douglas*, *ante*, p. 1268. See also *Reg. v. Rosenthal*, *ib.*

19. All the pecuniary penalties imposed by this Act for offences committed in England may be recovered in any of Her Majesty's courts of record at Westminster, . . . or for offences committed in any part of Great Britain in a summary way before two justices of the peace for any county, riding, division, liberty, city, or borough where any such offence shall be committed (*i*) . . .

6 & 7 Vict.  
c. 68.

Penalties  
how to be  
recoverable.  
Appeal.

20. It shall be lawful for any person who shall think himself aggrieved by any order of such justices of the peace to appeal therefrom to the next general or quarter sessions of the peace (*k*) to be holden for the said county, riding, division, liberty, city, or borough, whose order therein shall be final.

21. The said penalties for any offence against this Act shall be paid and applied in the first instance toward defraying the expenses incurred by the prosecutor, and the residue thereof (if any) shall be paid to the use of Her Majesty, her heirs and successors.

Appropriation  
of penalties.

22. Provided always, that no person shall be liable to be prosecuted for any offence against this Act unless such prosecution shall be commenced within six calendar months after the offence committed.

Limitation of  
actions.

23. In this Act the word "stage play" shall be taken to include every tragedy, comedy, farce, opera, burletta, interlude, melodrama, pantomime, or other entertainment of the stage, or any part thereof (*l*): Provided always, that nothing herein contained shall be construed to apply to any theatrical representation in any booth or show which by the justices of the peace, or other persons having authority in that behalf, shall be allowed in any lawful fair, feast, or customary meeting of the like kind.

Interpretation  
of Act.

24. This Act shall extend only to Great Britain.

Limits of the  
Act.

(*i*) **Section 19.**—The remainder of this section is repealed by 55 & 56 Vict. c. 19 (Statute Law Revision).

(*k*) **Appeal to quarter sessions.**—There is a right of appeal as well against the dismissal of a complaint as against a conviction. *Davys v. Douglas*, *ante*, p. 1268. As to the time and manner of appealing, see note to sec. 227 of the Met. Man. Act, 1855, *ante*, vol. i.

(*l*) **Stage plays.**—A dramatic performance, called a duologue, by two persons, is a stage play. *Thorne v. Colson*, 3 L. T. (N. S.) 697. So is an entertainment in which there is a dialogue between two persons bodily on a stage and a dramatic action and a regular plot performed by other parties not upon the stage, but whose images are reflected on it. *Day v. Simpson*, 18 C. B. (N. S.) 680; 34 L. J. M. C. 149.

Upon the stage of a house licensed for music and dancing a "ballet divertissement" was performed by dancers who described by their gestures and motions the ideas of war and peace. Held—(1) That the question whether a performance is a stage play within the above section is a question of fact for the magistrate. (2) By the majority of the court, that if they had been obliged to decide the question of fact they should have concluded that this was a stage play. *Wigan v. Strange*, L. R. 1 C. P. 175; 35 L. J. M. C. 31.



## TRAMWAYS.

|                                                                 |           |
|-----------------------------------------------------------------|-----------|
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## TRAMWAYS ACT, 1870.

**33 & 34 Vict. c. 78.** An Act to facilitate the construction and to regulate the working of Tramways (*a*). [9th August, 1870]

*Preliminary.*

Short title.

Limitation of Act.

Interpretation of terms.

1. This Act may be cited for all purposes as "The Tramways Act, 1870."
2. This Act shall not extend to Ireland.
3. For the purposes of this Act the terms hereinafter mentioned shall have the meanings hereinafter assigned to them; that is to say,  
 The terms "local authority" and "local rate" shall mean respectively the bodies of persons and rate named in the table in part one of the schedule A. to this Act annexed:  
 The term "road" shall mean any carriageway being a public highway, and the carriageway of any bridge forming part of or leading to the same:  
 The term "road authority" (*b*) shall mean, in the districts specified in the table in part two of the schedule A. to this Act annexed, the bodies of persons named in the same table, and elsewhere any local authority, board, town council, body corporate, commissioners, trustees, vestry, or other body (*c*) or persons in whom a road as defined by this Act is vested, or who have the power to maintain or repair such road:  
 The term "district," in relation to a local authority or road authority, shall mean the area within the jurisdiction of such local authority or road authority:  
 The term "prescribed" shall mean prescribed by any rules made in pursuance of this Act (*d*):  
 The term "the Lands Clauses Acts" means, so far as the provisional order in which that term is used relates to England, The Lands Clauses Consolidation Act, 1845; and, so far as the same relates to Scotland, The Lands Clauses Consolidation (Scotland) Act, 1845; together with, in each case, The Lands Clauses Consolidation Acts Amendment Act, 1860;  
 The term "two justices" shall, in addition to its ordinary signification, mean one stipendiary or police magistrate acting in any police court for the district.

## PART I.

*Provisional Orders authorising the Construction of Tramways.*

By whom provisional orders authorising the construction of tramways may be obtained.

4. Provisional orders authorising the construction of tramways in any district (*e*) may be obtained by—

- (1) The local authority of such district: or by
- (2) Any person, persons, corporation, or company, with the consent of the local authority of such district; or of the road authority of such district

(*a*) **Rateability.**—A tramway company is rateable to the poor rate in respect of its occupation of the road by its tramways. *Pimlico, &c. Street Tramways Co. v. Greenwich Union Assessment Committee*, L. R. 9 Q. B. 9; 43 L. J. M. C. 29.

(*b*) **Road authority.**—As to the effect of an agreement between a county council and a highway board for the repair of a main road, see *Stockport Highway Bd. v. Cheshire Coun. Council*, 61 L. J. Q. B. 22; 55 J. P. 808.

(*c*) **Other body or persons.**—A railway company liable to repair a bridge, with its approaches, over their line, was held to be a road authority within the meaning of section 32, *post*. *Wolverhampton Tramways Co. v. Gt. Western Rail. Co.*, 56 L. J. Q. B. 190; 56 L. T. (N. S.) 892.

(*d*) **Rules made in pursuance of Act.**—See sec. 63, *post*.

(*e*) **Authorising construction of tramways.**—For the Acts under which tramways in London have been authorised, see the schedule to the London County Tramways Act, 1896, *post*.

where such district is or forms part of a highway district formed under the provisions of "The Highway Acts": 33 & 34 Vict. c. 78.

And any such local authority, person, persons, corporation, or company shall be deemed to be promoters of a tramway, and are in this Act referred to as "the promoters."

Application for a provisional order shall not be made by any local authority until such application shall be approved in the manner prescribed in part three of the schedule A. to this Act annexed.

Where in any district there is a road authority distinct from the local authority, the consent of such road authority shall also be necessary in any case where power is sought to break up any road subject to the jurisdiction of such road authority (*f*), before any provisional order can be obtained.

5. Where it is proposed to lay down a tramway in two or more districts, and any local or road authority having jurisdiction in any of such districts does not consent thereto, the Board of Trade may, nevertheless, make a provisional order authorising the construction of such tramway if they are satisfied, after inquiry, that two thirds of the length of such tramway is proposed to be laid in a district or in districts the local and road authority or the local and road authorities of which district or districts do consent thereto; and in such case they shall make a special report stating the grounds upon which they have made such order.

The Board of Trade may in certain cases dispense with the consent of local or road authority.

6. The promoters intending to make an application for a provisional order shall proceed as follows:—

Notices and deposit of documents by promoters as in schedule.

(1) In the months of October and November next before their application, or in one of those months, they shall publish notice of their intention to make such application by advertisement (*g*); and they shall, on or before the fifteenth day of the following month of December, serve notice of such intention, in accordance with the standing orders (if any) of both Houses of Parliament for the time being in force with respect to bills for the construction of tramways:

(2) On or before the thirtieth day of the same month of November they shall deposit the documents described in part two of the same schedule, according to the regulations therein contained:

(3) On or before the twenty-third day of December in the same year they shall deposit the documents described in part three of the same schedule, according to the regulations therein contained:

All maps, plans, and documents required by this Act to be deposited for the purposes of any provisional order may be deposited with the persons and in the manner directed by the Parliamentary Documents Deposit Act, 1837; and all the provisions of that Act shall apply accordingly (*h*).

7 Will. 4 & 1 Vict. c. 83.

7. The Board of Trade shall consider the application, and may, if they think fit, direct an inquiry in the district to which the same relates, or may otherwise inquire as to the propriety of proceeding upon such application, and they shall consider any objection thereto that may be lodged with them on or before such day as they from time to time appoint, and shall determine whether or not the promoters may proceed with the application.

Power for Board of Trade to determine on application and on objection.

8. Where it appears to the Board of Trade expedient and proper that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, the Board of Trade may settle and make a provisional order accordingly.

Power for Board of Trade to make provisional order.

Every such provisional order shall empower the promoters therein specified to make the tramway upon the gauge and in manner therein described, and shall contain such provisions as (subject to the requirements of this Act) the Board of

Form and contents of provisional order.

(*f*) **Break up any road.**—See secs. 109 to 115 of the Met. Man. Act, 1855, *ante*, vol. i.

(*g*) **Advertisement.**—See schedule B., part i., *post*, as to the particulars to be contained in such advertisement.

(*h*) **Parliamentary Deposits Act, 1837.**—This Act requires clerks of the peace, parish clerks, and other persons to receive such maps, plans, &c. as shall be directed to be deposited with them by the standing orders of either of the Houses of Parliament, and to retain them for the purposes directed by such standing orders. They are required to permit such documents to be inspected or copied by all persons interested; and are, subject to a penalty of £5 for every omission, to comply with the provisions of the Act.

33 & 34 Vict.  
c. 78.

Regulations as  
to construction  
of tramways  
in towns.

Nature of  
traffic on  
tramway and  
tolls to be  
specified in  
provisional  
order.  
Costs of order.

Promoters  
to deposit  
4l. per cent.  
on estimate  
in prescribed  
bank.

Publication  
of provisional  
order as in  
schedule.

Confirmation  
of provisional  
order by Act  
of Parliament.

Trade, according to the nature of the application and the facts and circumstances of each case, think fit to submit to Parliament for confirmation in manner provided by this Act; but so that any such provisional order shall not contain any provision for empowering the promoters or any other person to acquire lands otherwise than by agreement, or to acquire any lands, even by agreement, except to an extent therein limited, or to construct a tramway elsewhere than along or across a road, or upon land taken by agreement.

9. Every tramway in a town which is hereafter authorised by provisional order shall be constructed and maintained as nearly as may be in the middle of the road; and no tramway shall be authorised by any provisional order to be so laid that for a distance of thirty feet or upwards a less space than nine feet and six inches shall intervene between the outside of the footpath on either side of the road and the nearest rail of the tramway if one third of the owners or one third of the occupiers of the houses, shops, or warehouses abutting upon the part of the road where such less space shall intervene as aforesaid shall in the prescribed manner (*i*) and at the prescribed time express their dissent from any tramway being so laid (*k*).

10. Every such provisional order shall specify the nature of the traffic (*l*) for which such tramway is to be used, and the tolls and charges which may be demanded and taken by the promoters in respect of the same, and shall contain such regulations relating to such traffic and such tolls and charges as the Board of Trade shall deem necessary and proper.

11. The costs of and connected with the preparation and making of each provisional order (*m*) shall be paid by the promoters, and the Board of Trade may require the promoters to give security for such costs before they proceed with the provisional order.

12. After a provisional order is ready, and before the same is delivered by the Board of Trade, the promoters, unless they are a local authority, shall within the prescribed time and in the prescribed manner, and subject to the prescribed conditions as to interest, repayment, or forfeiture, pay, as a deposit, into the prescribed bank, the sum of money prescribed, which shall not be less than four pounds per centum on the amount of the estimate by the promoters of the expense of the construction of the tramway, or deposit in such bank any security of the prescribed nature the then value of which is not less than such sum of money (*n*).

13. When a provisional order has been made as aforesaid and delivered to the promoters, the promoters shall forthwith publish the same by deposit and advertisement, according to the regulations contained in part four of the schedule B. to this Act.

14. On proof to the satisfaction of the Board of Trade of the completion of such publication as aforesaid, the Board of Trade shall, as soon as they conveniently can after the expiration of seven days from the completion of such publication, procure a bill to be introduced into either House of Parliament in

(*i*) **Prescribed manner**, i.e., prescribed by rules made in pursuance of this Act. See sec. 3, *ante*, and sec. 64, *post*.

(*k*) **Space between footpath and tramway**.—For a case in which the rule that 9ft. 6in. shall intervene between the footpath and the tramway rail was departed from, see *Edinburgh Street Tramways Co. v. Black*, 2 L. R. H. L. (Sc.) 336; 37 J. P. 692.

(*l*) **Nature of traffic**.—As to the conveyance of mails on tramways, and the remuneration therefor, see note to sec. 9 of the London County Tramways Act, 1896, *post*.

(*m*) **Costs of provisional order**.—These are taxed on the chancery and not on the parliamentary scale. *Morley, In re*, L. R. 20 Eq. 17; 32 L. T. (N. S.) 524.

(*n*) **Deposit by promoters**.—As to deposits under this section, see the Parliamentary Deposits and Bonds Act, 1892 (55 & 56 Vict. c. 27), and also *Tynemouth Borough Tramway Co., In re*, 33 L. T. (N. S.) 8; *Bradford Tramways Co., In re*, 4 Ch. D. 18; 46 L. J. Ch. 89; *Lowestoft, &c. Tramways Co., In re*, 6 Ch. D. 484; 46 L. J. Ch. 393; *Ex parte Chambers* (1893), 1 Ch. 47; 62 L. J. Ch. 78; *Colchester Tramways Co., In re* (1893), 1 Ch. 309; 62 L. J. Ch. 243; *Manchester, &c. Tramways Co., In re* (1893), 2 Ch. 638; 62 L. J. Ch. 752; *Bradford and District Tramways Co., Ex parte* (1893), 3 Ch. 463; 62 L. J. Ch. 668; *Dudley and Kingswinford Tramways, In re*; 63 L. J. Ch. 108; 69 L. T. (N. S.), 711.



relation to any provisional order which shall have been published as aforesaid not later than the twenty-fifth of April in any year, for an Act to confirm the provisional order, which shall be set out at length in the schedule to the bill; and until confirmation, with or without amendment, by Act of Parliament, a provisional order under this Act shall not have any operation.

33 & 34 Vict.  
c. 78.

If while any such bill is pending in either House of Parliament a petition is presented against any provisional order comprised therein, the bill, so far as it relates to the order petitioned against, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of a bill for a special Act.

The Act of Parliament confirming a provisional order under this Act shall be deemed a public general Act.

15. The provisions of the Lands Clauses Acts shall be incorporated with every provisional order under this Act, save where the same are expressly varied or excepted by any such provisional order, and except as to the following provisions, namely—

Incorporation  
of general Acts  
in provisional  
order.

(1) With respect to the purchase and taking of lands otherwise than by agreement;

(2) With respect to the entry upon lands by the promoters of the undertaking.

For the purposes of such incorporation a provisional order under this Act shall be deemed the special Act.

16. The Board of Trade on the application of any promoters empowered by a provisional order may from time to time revoke, amend, extend, or vary such provisional order by a further provisional order.

Power of  
Board of Trade  
to revoke,  
amend, extend,  
or vary pro-  
visional order.

Every application for such further provisional order shall be made in like manner and subject to the like conditions as the application for the former provisional order.

Every such further provisional order shall be made and confirmed in like manner in every respect as the former provisional order, and until such confirmation such further provisional order shall not have any operation.

17. Subject and according to the provisions of this Act, the Board of Trade may, on a joint application, or on two or more separate applications, settle and make a provisional order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and jointly or separately to own the whole or parts thereof; and all the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of such tramway as last aforesaid; and the form of the provisional order may be adapted to the circumstances of the case.

Power to  
authorise  
joint work.

18. If the promoters, empowered by any provisional order under this Act to make a tramway, do not, within two years from the date of the same, or within any shorter period prescribed therein, complete the tramway and open it for public traffic; or,

Cesser of  
powers at  
expiration of  
prescribed  
time.

If within one year from the date of the provisional order, or within such shorter time as is prescribed in the same, the works are not substantially commenced; or,

If the works having been commenced are suspended without a reason sufficient in the opinion of the Board of Trade to warrant such suspension; the powers given by the provisional order to the promoters for constructing such tramway, executing such works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the same as is then completed, unless the time be prolonged by the special direction of the Board of Trade; and as to so much of the same as is then completed the Board of Trade may allow the said powers to continue and to be exercised if they shall think fit, but failing such permission the same shall cease to be exercised, and where such permission is withheld then so much of the said tramway as is then completed shall be deemed to be a tramway to which all the provisions of this Act relating to the discontinuance of tramways after proof of such discontinuance shall apply, and may be dealt with accordingly.

A notice purporting to be published by the Board of Trade in the London or Edinburgh Gazette, accordingly as the district to which it relates is situate in England or Scotland, to the effect that a tramway has not been completed and

33 & 34 Vict.  
c. 78.

Local authority  
may lease or  
take tolls.

opened for public traffic, or that the works have not been substantially commenced, or that they have been suspended without sufficient reason, shall be conclusive evidence for the purposes of this section of such non-completion, non-commencement, or suspension.

19. When a tramway has been completed under the authority of a provisional order by any local authority, or where any local authority has under the provisions of this Act acquired possession of any tramway, such authority may, with the consent of the Board of Trade, and subject to the provisions of this Act, by lease, to be approved of by the Board of Trade, demise to any person, persons, corporation, or company the right of user by such person, persons, corporation, or company of the tramway, and of demanding and taking in respect of the same the tolls and charges authorised; or such authority may leave such tramway open to be used by the public, and may in respect of such user demand and take the tolls and charges authorised; but nothing in this Act contained shall authorise any local authority to place or run carriages upon such tramway, and to demand and take tolls and charges in respect of the use of such carriages (*v*).

Notice of the intention to make such lease shall be published by the local authority by advertisement, and a copy of such lease shall be deposited according to the regulations contained in part one of the schedule C. to this Act annexed; and unless such notice is given, and such copy deposited, such lease shall not be approved of by the Board of Trade.

Every such lease shall be made for a term or for terms not exceeding in the whole twenty-one years.

On the determination of any lease made under this Act, the local authority may from time to time, with the consent of the Board of Trade, by lease, demise such rights for such further term or terms, not exceeding in any case twenty-one years, as the said Board may approve.

Every such lease shall imply a condition of re-entry if at any time after the making of the same the lessees discontinue the working of the tramway leased, or of any part thereof, for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of such lessees, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control).

The person, persons, corporation, or company to whom any such lease may be made are in this Act referred to as "lessees."

How expenses  
to be defrayed.

20. Where the local authority in any district are the promoters of any tramway, they shall pay all expenses incurred by them in applying for and obtaining a provisional order, and carrying into effect the purposes of such provisional order, out of the local rate (*p*), and any such expenses shall be deemed to be purposes for which such local rate may be made, and to which the same may be applied.

Where the local rate is limited by law to a certain amount, and is by reason of such limitation insufficient for the payment of such expenses, the Board of Trade may, by the provisional order, extend the limit of such local rate to such amount as they shall think fit, and prescribe for the payment of such expenses.

Such local authority may, for the purposes of such provisional order, borrow and take up at interest, on the credit of such local rate, any sums of money necessary for defraying any such expenses; and for the purpose of securing the repayment of any sums so borrowed, together with such interest as aforesaid, such local authority may mortgage to the persons by or on behalf of whom such sums are advanced such local rate; but the exercise of the above-mentioned power shall be subject to the following regulations:

- (1) The money so borrowed shall not exceed such sum as may be sanctioned by the Board of Trade:
- (2) The money may be borrowed for such time, not exceeding thirty years, as such local authority, with the sanction of the Board of Trade, shall determine; and, subject as aforesaid to the repayment within thirty years, such local authority may either pay off the moneys so borrowed by equal

(*v*) **Power to work tramways.**—The London County Tramways Act, 1896, *post*, empowers the London County Council to work certain tramways mentioned in the schedule to that Act and purchased or acquired by them under their statutory powers.

(*p*) **Local rate.**—See sec. 3, *ante*, and sched. A., part i., *post*.

annual instalments, or they may in every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of Exchequer bills or other Government securities, such sum as will be sufficient to pay off the moneys so borrowed, or a part thereof, at such times as the local authority may determine.

The provisions of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners (g), shall apply to any mortgage executed under the foregoing provisions of this section, and for the purposes of such application the said provisions shall be incorporated with this Act.

For the purposes of such incorporation, the terms "the special Act" and "the commissioners" shall be construed to mean respectively a provisional order under this Act and the local authority.

Such local authority shall keep separate accounts of all moneys paid by them in applying for, obtaining, and carrying into effect any such provisional order, and in the repayment of moneys borrowed, and of all moneys received by them by way of rent or tolls in respect of the tramway authorised thereby.

When, after payment of all charges incurred under the authority of this Act, and necessary for giving effect to such provisional order, there shall be remaining in the hands of such local authority any of the moneys received by them by way of rent or tolls in respect of the tramway authorised by such provisional order, such moneys shall be applied by them to the purposes for which the local rate may be by them applied.

21. The Metropolitan Board of Works (r) may, in order to raise money for the purpose of carrying into effect the purposes of any provisional order obtained by them, create additional stock, not exceeding in the whole three hundred thousand pounds, under "The Metropolitan Board of Works (Loans) Act, 1869," in like manner, and with the like sanction, in and with which they may create stock in order to raise money for the purposes of the Acts mentioned in the first schedule to that Act; and all the provisions of that Act shall apply as if that money were raised and that stock were created for the purposes of the last-mentioned Acts, with the exception that the money required for the purposes of any such provisional order may be borrowed by them in addition to the sum limited by section thirty-eight of "The Metropolitan Board of Works (Loans) Act, 1869" (s).

Metropolitan Board may, for carrying provisional order into effect, create stock under Loans Act of 1869.

## PART II.

### *Construction of Tramways.*

22. Part two and part three of this Act shall apply to every tramway which is hereafter authorised by any provisional order or Act of Parliament, and shall be incorporated with such provisional order or Act, and all the said provisions of this Act, save so far as they shall be expressly varied or excepted by any such provisional order or Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the provisions of every other Act or part of any Act which shall be incorporated therewith, form part of the said provisional order or Act, and be construed therewith as forming one provisional order or Act, as the case may be.

As to incorporation of parts ii. and iii. of this Act with provisional order and special Acts.

23. In part two and part three of this Act the term "special Act" shall be construed to mean any Act of Parliament which shall be hereafter passed or any provisional order authorising the construction of a tramway, and with which the said parts of this Act shall be incorporated as aforesaid.

"Special Act."

24. The term "the promoters" shall mean any person, persons, corporation, company, or local authority authorised by special Act to construct a tramway.

"Promoters."

25. Every tramway which is hereafter authorised by special Act shall be constructed on such gauge as may be prescribed by such special Act (t), and if no gauge is thereby prescribed, on such gauge as will admit of the use upon such

Mode of formation of tramways.

(g) Commissioners Clauses Act, 1847, i.e., 10 & 11 Vict. c. 16, secs. 75—88, inclusive.  
(r) Met. Bd. Wks.—Now the London County Council. Loc. Govt. Act, 1888, sec. 40 (8), *ante*, vol. i.

(s) Met. Bd. Wks. (Loans) Act, 1869.—*Ante*, tit. "Loans."

(t) Prescribed by special Act.—When the special Act directs compliance with deposited plans and sections they are regarded as embodied in the statute. *Edinburgh Street Tramways Co. v. Black*, *ante*, p. 1275.



33 & 34 Vict.  
c. 78.

Power to  
break up  
streets, &c.

tramways of carriages constructed for use upon railways of a gauge of four feet eight inches and half an inch, and shall be laid and maintained in such manner that the uppermost surface of the rail shall be on a level with the surface of the road, and shall not be opened for public traffic until the same has been inspected and certified to be fit for such traffic, in the prescribed manner.

**26.** The promoters from time to time, for the purpose of making, forming, laying down, maintaining, and renewing any tramway duly authorised, or any part or parts thereof respectively, may open and break up any road, subject to the following regulations (*u*):

1. They shall give to the road authority notice of their intention, specifying the time at which they will begin to do so, and the portion of road proposed to be opened or broken up, such notice to be given seven days at least before (*x*) the commencement of the work:
2. They shall not open, or break up, or alter the level of any road, except under the superintendence and to the reasonable satisfaction of the road authority, unless that authority refuses or neglects to give such superintendence at the time specified in the notice, or discontinues the same during the work:
3. They shall pay all reasonable expenses to which the road authority is put on account of such superintendence (*y*):
4. They shall not, without the consent of the road authority, open or break up at any one time a greater length than one hundred yards of any road which does not exceed a quarter of a mile in length, and in the case of any road exceeding a quarter of a mile in length the promoters shall leave an interval of at least a quarter of a mile between any two places at which they may open or break up the road, and they shall not open or break up at any such place a greater length than one hundred yards.

Where the carriageway over any bridge forms part of or is a road within the jurisdiction of a road authority, but such bridge is vested in some person or persons, corporation, or company, distinct from such road authority, any work which the promoters may be empowered to construct, and which affects or in anywise interferes with the structural works of such bridge, shall be constructed under the superintendence (at the cost of the promoters) and to the reasonable satisfaction of such person, persons, corporation, or company, unless after notice to be given by the promoters seven days at least before the commencement of such work such superintendence is refused or withheld.

Where the carriageway in or upon which any tramway is proposed to be formed or laid down is crossed by any railway or tramway on the level, any work which the promoters may be empowered to construct, and which affects or in anywise interferes with such railway or tramway, or the traffic thereon, shall be constructed and maintained under the superintendence (at the cost of the promoters) and to the reasonable satisfaction of the person, corporation, or company owning such railway or tramway, unless after notice to be given by the promoters seven days at least before the commencement of such work such superintendence is refused or withheld.

Completion of  
work and re-  
instatement  
of road.

**27.** When the promoters have opened or broken up any portion of any road they shall be under the following further obligations; namely,

1. They shall, with all convenient speed, and in all cases within four weeks at the most (unless the road authority otherwise consents in writing) complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance, or renewal of the tramway) fill in the ground and make good the surface, and, to the satisfaction of the road authority, restore the portion of the road to as good condition as that in

(*u*) **Break up road.**—See further, as to breaking up and reinstating streets, the Met. Man. Act, 1855, secs. 109 to 115, and the Met. Man. Amend. Act, 1862, sec. 82, *ante*, vol. i.

(*x*) **Seven days at least before**, i.e., clear days, exclusive of the day of notice and the day of commencing work. *Reg. v. Shropshire JJ.*, *ante*, vol. i., p. 291.

(*y*) **Expenses of superintendence.**—Where a tramway company, without previous notice, on different occasions had laid and relaid paving stones between and on either side of the rails, in order to pack ballast under and raise the rails, which had sunk below the level of the stones, it was held that what the company had done came under sec. 28, and not under sec. 26, and that the vestry were not entitled to be paid the expenses of superintendence. *St. Luke's Vestry v. North Metropolitan Tramways Co.*, 1 Q. B. D. 760; 40 J. P. 806.

which it was before it was opened or broken up, and clear away all surplus paving or metalling material or rubbish occasioned thereby :

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2. They shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night:
3. They shall bear or pay all reasonable expenses of the repair of the road for six months after the same is restored, as far as those expenses are increased by the opening or breaking up.

If the promoters aforesaid fail to comply in any respect with the provisions of the present section, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act or to any other remedy against them) be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for each day during which any such failure continues after the first day on which such penalty is incurred.

28. The promoters shall, at their own expense, at all times maintain and keep in good condition and repair, with such materials and in such manner as the road authority shall direct, and to their satisfaction, so much of any road whereon any tramway belonging to them is laid as lies between the rails of the tramway and (where two tramways are laid by the same promoters in any road at a distance of not more than four feet from each other) the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway (z). If the promoters abandon their undertaking, or any part of the same, and take up any tramway or any part of any tramway belonging to them, they shall with all convenient speed, and in all cases within six weeks at the most (unless the road authority otherwise consents in writing), fill in the ground and make good the surface, and, to the satisfaction of the road authority, restore the portion of the road upon which such tramway was laid to as good a condition as that in which it was before such tramway was laid thereon, and clear away all surplus paving or metalling material or rubbish occasioned by such work; and they shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night: Provided always that if the promoters fail to comply with the provisions of this section, the road authority, if they think fit, may themselves at any time, after seven days' notice to the promoters, open and break up the road, and do the works necessary for the repair and maintenance or restoration of the road, to the extent in this section above mentioned, and the expense incurred by the road authority in so doing shall be repaid to them by the promoters.

Repair of  
part of road  
where tramwa  
is laid.

29. The road authority on the one hand and the promoters on the other hand may from time to time enter into and carry into effect, and from time to time alter, renew, or vary, contracts, agreements, or arrangements with respect to the paving and keeping in repair of the whole or any portion of the roadway of any road on which the promoters shall lay any tramway, and the proportion to be paid by either of them of the expense of such paving and keeping in repair (a).

Road authority  
and promoters  
may contract  
for paving  
roads on which  
tramways  
are laid.

30. For the purpose of making, forming, laying down, maintaining, repairing, or renewing any of their tramways, the promoters may from time to time, where and as far as it is necessary, or may appear expedient for the purpose of preventing frequent interruption of the traffic by repairs or works in connexion with the same, alter the position of any mains or pipes for the supply of gas or water, or any tube, wires, or apparatus for telegraphic or other purposes, subject to the provisions of this Act, and also subject to the following restrictions; that is to say—

Provision as  
to gas and  
water com-  
panies.

1. Before laying down a tramway in a road in which any mains or pipes, tubes, wires, or apparatus may be laid, the promoters shall, whether they contemplate altering the position of any such mains or pipes, wires, or apparatus, or not, give seven days' notice to the company, persons, or person to whom such mains or pipes, tubes, wires, or apparatus may belong or by

(z) **Repair of roadway.**—See *St. Luke's Vestry v. North Metropolitan Tramway Co.*, *supra*.

(a) **Contract to repair roadway.**—Where a tramway company has entered into a contract with the road authority under sec. 29, whereby such authority has undertaken the repair of the portion of the road which, under sec. 28, the tramway company had to repair, the tramway company is not liable for injuries occasioned through non-repair of such portion of the road to a person using the same. *Allred v. West Metropolitan Tramways Co.* (1891), 2 Q. B. 398; 60 L. J. Q. B. 631.

33 & 34 Vict.  
c. 78.

whom they are controlled, of their intention to lay down or alter the tramway, and shall at the same time deliver a plan and section of the proposed work. If it should appear to any such company or person that the construction of the tramway as proposed would endanger any such main or pipe, tube, wire, or apparatus, or interfere with or impede the supply of water or gas or the telegraphic or other communication, such company or person (as the case may be) may give notice to the promoters to lower or otherwise alter the position of the said mains or pipes, tubes, wires, or apparatus in such manner as may be considered necessary, and any difference as to the necessity of any such lowering or alteration shall be settled in manner provided by this Act for the settlement of differences between the promoters and other companies or persons, and all alterations to be made under this section shall be made with as little detriment and inconvenience to the company or person to whom such mains or pipes, tubes, wires, or apparatus may belong, or by whom the same are controlled, or to the inhabitants of the district, as the circumstances will admit, and under the superintendence of such company or person or of their surveyor or engineer if they or he think fit to attend, after receiving not less than forty-eight hours' notice for that purpose, which notice the promoters are hereby required to give:

2. The promoters shall not remove or displace any of the mains or pipes, valves, syphons, plugs, tubes, wires, or apparatus, or other works belonging to or controlled by any such company or person, or do anything to impede the passage of water or gas or the telegraphic or other communication into or through such mains or pipes, without the consent of such company or person, or in any other manner than such company or person shall approve, until good and sufficient mains, pipes, valves, syphons, plugs, and other works necessary or proper for continuing the supply of water or gas or telegraphic or other communication, as sufficiently as the same was supplied by the mains or pipes, tubes, wires, or apparatus proposed to be removed or displaced, shall at the expense of the promoters have been first made and laid down in lieu thereof and ready for use, and to the satisfaction of the surveyor or engineer of such water or gas or other company, or of such person, or, in case of disagreement between such surveyor or engineer and the promoters, as an engineer appointed by the Board of Trade shall direct:
3. The promoters shall not lay down any such pipes contrary to the regulations of any Act of Parliament relating to such water or gas or other company, or relating to telegraphs:
4. The promoters shall make good all damage done by them to property belonging to or controlled by any such company or person, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with such property, or with the private service pipes of any person supplied by any such company or person with water or gas:
5. If by any such operations as aforesaid the promoters interrupt the supply of water or gas in or through any main or main pipe they shall be liable to a penalty not exceeding twenty pounds for every day upon which such supply shall be so interrupted.

For protection  
of sewers, &c.

31. Where in any district any tramway or any work connected therewith interferes with any sewer, drain, watercourse, subway, defence, or work in such district, or in any way affects the sewerage or drainage of such district, the promoters shall not commence any tramway or work until they shall have given to the proper authority fourteen days' previous notice in writing of their intention to commence the same, by leaving such notice at the principal office of such authority with all necessary particulars relating thereto, nor until such authority shall have signified their approval of the same, unless such authority do not signify their approval, disapproval, or other directions within fourteen days after service of the said notice and particulars as aforesaid, and the promoters shall comply with and conform to all reasonable directions and regulations of the said authority in the execution of the said works, and shall provide by new, altered, or substituted works, in such manner as such authority shall reasonably require, for the proper protection of and for preventing injury or impediment to the sewers and works hereinbefore referred to, by or by reason of the tramways, and shall save harmless the said authority against all and every the expense to



be occasioned thereby; and all such works shall be done under the direction, superintendence, and control of the engineer or other officer or officers of the said authority, at the reasonable costs, charges, and expenses in all respects of the promoters; and when any new, altered, or substituted work as aforesaid, or any works or defence connected therewith, shall be completed by or at the costs, charges, or expenses of the promoters, under the provisions of this Act, the same shall thereafter be as fully and completely under the direction, jurisdiction, and control of the said authority and be maintained by them as any sewers or works.

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**32.** Nothing in this Act shall take away or abridge any power to open or break up any road along or across which any tramway is laid, or any other power vested in any local authority or road authority (*b*) for any of the purposes for which such authority is respectively constituted, or in any company, body, or person for the purpose of laying down, repairing, altering, or removing any pipe for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes, but in the exercise of such power every such local authority, road authority, company, body, or person shall be subject to the following restrictions; that is to say,

Rights of  
authorities and  
companies, &c.  
to open roads.

1. They shall cause as little detriment or inconvenience to the promoters and lessees as circumstances admit:
2. Before they commence any work whereby the traffic on the tramway will be interrupted they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the promoters and lessees, if there be any, notice of their intention to commence such work, specifying the time at which they will begin to do so, such notice to be given eighteen hours at least before the commencement of the work:
3. They shall not be liable to pay to the promoters or lessees any compensation for injury done to the tramway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers so vested in them as aforesaid:
4. Whenever for the purpose of enabling them to execute such work the local authority or the road authority shall so require, the promoters or lessees shall either stop traffic on the tramway to which the notice shall refer, where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work there: Provided that such work shall always be completed by the local authority or the road authority, as the case may be, with all reasonable expedition:
5. Any company, body, or person shall not execute such work so far as it immediately affects the tramway except under the superintendence of the promoters, unless they refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work or discontinue the same during the progress of the work; and they shall execute such work at their own expense, and to the reasonable satisfaction of the promoters: Provided that any additional expense imposed upon them by reason of the existence of the tramway in any road or place where any such mains, pipes, tubes, wires, or apparatus shall have been laid before the construction of such tramway shall be borne by the promoters.

**33.** If any difference arises between the promoters or lessees on the one hand and any local authority or road authority, or any gas or water company, or any company, body, or person to whom any sewer, drain, tube, wires, or apparatus for telegraphic or other purposes may belong, or any other company, on the other hand, with respect to any interference or control exercised, or claimed to be exercised, by them or him, or on their or his behalf, or by the promoters or lessees by virtue of this Act, in relation to any tramway or work, or in relation to any work or proceeding of the local authority, road authority, body, company, or person, or with respect to the propriety of or the mode of execution of any work relating to any tramway, or with respect to the amount of any compensation to be made by or to the promoters or lessees, or on the question whether any work is such as ought reasonably to satisfy the local authority, road authority, body, company, or person concerned, or with respect to any other subject or thing regulated by or comprised in this Act, the matter in difference

Difference  
between  
promoters and  
road authority,  
&c.

(*b*) **Local authority. Road authority.**—See sec. 3, *ante*, and *Wolverhampton Tramways Co. v. Gt. Western Rail. Co.*, cited in note thereto.

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shall (unless otherwise specially provided by this Act) be settled by an engineer or other fit person nominated as referee by the Board of Trade on the application of either party, and the expenses of the reference shall be borne and paid as the referee directs (c).

### PART III.

#### GENERAL PROVISIONS.

##### *Carriages.*

Power for  
promoters to  
use tramways  
with flange-  
wheeled car-  
riages, &c.

34. The promoters of tramways authorised by special Act and their lessees may use on their tramways carriages with flange wheels or wheels suitable only to run on the rail prescribed by such Act; and, subject to the provisions of such special Act and of this Act, the promoters and their lessees shall have the exclusive use of their tramways (d) for carriages with flange wheels or other wheels suitable only to run on the prescribed rail.

All carriages used on any tramway shall be moved by the power prescribed by the special Act (d), and where no such power is prescribed, by animal power only.

No carriage used on any tramway which is hereafter authorised by special Act shall extend beyond the outer edge of the wheels of such carriage more than eleven inches on each side.

##### *Licences to use Tramways.*

Licences  
to use the  
tramway may  
in certain  
events be  
granted to  
third parties  
by the Board  
of Trade.

35. If at any time after any tramway or part of any tramway shall have been for three years opened for public traffic in any district it shall be represented in writing to the Board of Trade by the local authority of such district, or by twenty inhabitant ratepayers of such district, or by the road authority of any road in which such tramway or part of a tramway is laid, that the public are deprived of the full benefit of the tramway, the Board of Trade may (if they consider that, *prima facie*, the case is one for inquiry) direct an inquiry by a referee under this Act into the truth of the representation, and if the referee report that the truth of the representation has been proved to his satisfaction, the Board may from time to time grant licences to any company or person to use such tramway in addition to the promoters or their lessees, for such traffic as is authorised by the special Act, with carriages to be approved by the Board, subject to the following provisions, conditions, and restrictions; that is to say,

1. The licence shall be for any period not less than one year nor more than three years from the date of the licence, but shall be renewable by the Board, if they upon inquiry think fit;
2. The licence shall be to use the whole of such tramway for the time being opened for public traffic, or such part or parts of such tramway as the Board, having reference to the cause for granting the licence, shall think right;
3. The licence shall direct the number of carriages which the licensee or licensees shall run upon such tramway, and the mode in which and times at which such carriages shall be run:

(c) *Difference between promoters and local authority, &c.*—A *mandamus* to a tramways company to take up a paving laid down without the approval of the local authority was refused by the court on the ground that the matter was a "difference" which ought to be determined by a referee appointed by the Bd. of Trade. *Reg. v. Croydon and Norwood Tramways Co.*, 18 Q. B. D. 39; 56 L. J. Q. B. 125. Where a tramway company objected to the road authority taking up the granite pavement of a road, and laying down wood over the whole of the roadway, including the space between the rails, it was held that the difference was not one within the above section, inasmuch as it was not with respect to any interference or control claimed to be exercised by the road authority "by virtue of the Act," but was with respect to the exercise of a power which belonged to the road authority independently of the Act, and which was preserved by section 60. *Bristol Tramways Co. v. Bristol (Mayor, &c., of)*, 25 Q. B. D. 427; 59 L. J. Q. B. 441.

(d) *Power prescribed.*—Steam engines authorised by the special Act, used on a tramway, are not locomotives within the meaning of sec. 32 of the Highways and Locomotives Amend. Act, 1878, *ante*. *Bell v. Stockton, &c. Tramway Co.*, 51 J. P. 804; 3 T. L. R. 511.

4. The licences shall specify the tolls to be paid to the promoters or to their lessees by the licensee or licensees for the use of the tramways : 33 & 34 Vict. c. 78.
5. The licensee or licensees, and their officers and servants, shall permit one person duly authorised for that purpose by the promoters, or by their lessees, to ride free of charge in or upon each carriage of the licensee or licensees run upon the tramways for the whole or any part of the journey :
6. The Board of Trade may at any time after the granting of any licence revoke, alter, or modify the same for good cause shown to them.

36. If on demand any licensee fail to pay the tolls due in respect of any passengers carried in any carriage it shall be lawful for the promoters or their lessees, to whom the same are payable, to detain and sell such carriage, or if the same shall have been removed from the tramway or premises of such promoters or lessees, to detain and sell any other carriages on such tramway or premises belonging to such licensee, and out of the moneys arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus (if any) of such moneys and such of the carriages as shall remain unsold to the person entitled thereto.

In default of payment of tolls licensee's carriages may be detained and sold.

37. Every licensee shall on demand give to an officer or servant authorised in that behalf by the promoters or their lessees entitled to be paid tolls by such licensee, an exact account in writing signed by such licensee of the number of passengers conveyed by any and every carriage used by him on the tramways.

Licensees to give account of passengers carried by them.

38. If any such licensee fails to give such account to such officer or servant demanding the same as aforesaid, or if any such licensee with intent to avoid the payment of any tolls gives a false account, he shall for every such offence forfeit to the promoters, or to their lessees entitled to be paid tolls by such licensee, a sum not exceeding five pounds, and such penalty shall be in addition to any tolls payable in respect of the passengers carried by any such carriage.

Licensees not giving account of passengers carried liable to penalty.

39. If any dispute arise concerning the amount of the tolls due to the promoters or to their lessees from any licensee, or concerning the charges occasioned by any detention or sale of any carriage under the provisions herein contained, the same shall be settled in England by two justices, and in Scotland by the sheriff or two justices, and it shall be lawful for the promoters or their lessees in the meanwhile to detain the carriage, or (if the case so require) the proceeds of the sale thereof.

Disputes as to amount of toll to be settled by justice.

40. Every licensee shall be answerable for any trespass or damage done by his carriages or horses, or by any of the servants or persons employed by him, to or upon the tramway, or to or upon the property of any other person, and, without prejudice to the right of action against the licensee or any other person, every such servant or other person may lawfully be convicted of such trespass or damage in England before two justices, and in Scotland before the sheriff or two justices, either by the confession of the party offending or by the oath of some credible witness; and upon such conviction every such licensee shall pay to the promoters, lessees, or persons injured, as the case may be, the damage, to be ascertained by such justices, so that the same do not exceed fifty pounds.

Owners of carriages liable for damage done by their servants.

#### *Discontinuance of Tramways.*

41. If at any time after the opening of any tramway in any district for traffic the promoters discontinue the working of such tramway, or of any part thereof, for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of such promoters, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the Board of Trade, the said Board, if they think fit, may by order declare that the powers of the promoters in respect of such tramway or the part thereof so discontinued shall, from the date of such order, be at an end, and thereupon the said powers of the promoters shall cease and determine, unless the same are purchased by the local authority in manner by this Act provided. Where any such order has been made, the road authority of such district may at any time after the expiration of two months from the date of such order, under the authority of a certificate to that effect by the Board of Trade, remove the tramway or part of the tramway so discontinued, and the promoters shall pay to the road authority the cost of such removal and of the making good of the road by the road authority,

Tramways to be removed in certain cases.



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c. 78.

such cost to be certified by the clerk for the time being, or by some other authorised officer of the road authority, whose certificate shall be final and conclusive; and if the promoters fail to pay the amount so certified within one calendar month after delivery to them of such certificate or a copy thereof, the road authority may, without any previous notice to the promoters (but without prejudice to any other remedy which they may have for the recovery of the amount), sell and dispose of the materials of the tramway or part of tramway removed, either by public auction or private sale, and for such sum or sums, and to such person or persons, as the road authority may think fit, and may out of the proceeds of such sale pay and reimburse themselves the amount of the cost certified as aforesaid, and of the cost of sale, and the balance (if any) of the proceeds of the sale shall be paid over by the road authority to the promoters.

#### *Insolvency of Promoters.*

Proceedings  
in case of  
insolvency of  
promoters.

**42.** If at any time after the opening of any tramway in any district for traffic it appears to the local authority or the road authority of such district that the promoters of such tramway are insolvent, so that they are unable to maintain such tramway, or work the same with advantage to the public, and such road authority makes a representation to that effect to the Board of Trade, the Board of Trade may direct an inquiry by a referee into the truth of the representation (*e*), and if the referee shall find that the promoters are so insolvent as aforesaid, the Board of Trade may, by order, declare that the powers of the promoters shall, at the expiration of six calendar months from the making of the order, be at an end, and the powers of the promoters shall cease and determine at the expiration of the said period, unless the same are purchased by the local authority in manner by this Act provided; and thereupon such road authority may remove the tramway in like manner and subject to the same provisions as to the payment of the costs of such removal, and to the same remedy for recovery of such costs, in every respect as in cases of removal under the next preceding section.

#### *Purchase of Tramways.*

Future purchase of  
undertaking  
by local  
authority.

**43.** Where the promoters of a tramway in any district are not the local authority, the local authority, if, by resolution passed at a special meeting of the members constituting such local authority, they so decide, may within six months after the expiration of a period of twenty-one years from the time when such promoters were empowered to construct such tramway, and within six months after the expiration of every subsequent period of seven years, or within three months after any order made by the Board of Trade under either of the two next preceding sections, with the approval of the Board of Trade, by notice in writing require such promoters to sell, and thereupon such promoters shall sell to them their undertaking, or so much of the same as is within such district (*f*), upon terms of paying the then value (exclusive of any allowance for past or future profits of the undertaking, or any compensation for compulsory sale, or other consideration whatsoever) of the tramway (*g*), and all lands, buildings, works, materials, and plant of the promoters suitable to and used by

(*e*) **Bd. of Trade inquiry.**—As to an inquiry into the solvency of the promoters where a tramway company is in liquidation, see *Pontypridd, &c. Tramways Co., In re*, 58 L. J. Ch. 536; 37 W. R. 570.

(*f*) **Shall sell their undertaking.**—At the expiration of twenty-one years from the time when the promoters were empowered to construct a tramway the local authority is entitled, with the approval of the Board of Trade, to purchase so much of the undertaking as is within their district, without purchasing other lines which may have been added to it under other special Acts, and as to which the right of purchase has not arisen; and notwithstanding that the effect of such purchase may be to disconnect the general system of the owners of the tramway. *North Metropolitan Tramways Co. v. London Coun. Council*, 60 J. P. 23; 12 T. L. R. 101, affirming 69 J. P. 697; 72 L. T. (N. S.) 586.

(*g*) **The then value.**—The value must be measured by what it would cost to establish the tramway if it did not then exist, subject to a proper deduction in respect of depreciation. The rental value, and past and future profits, must not be taken into consideration. *Edinburgh Street Tramways Co. v. Lord Provost, &c. of Edinburgh*; and *London Street Tramways Co. v. London Coun. Council*, (1894), A. C. 456, 489; 63 L. J. Q. B. 769.

them for the purposes of their undertaking within such district, such value to be in case of difference determined by an engineer or other fit person nominated as referee by the Board of Trade on the application of either party, and the expenses of the reference to be borne and paid as the referee directs. And when any such sale has been made, all the rights, powers, and authorities of such promoters in respect to the undertaking sold, or where any order has been made by the Board of Trade under either of the next preceding sections, all the rights, powers, and authorities of such promoters previous to the making of such order in respect to the undertaking sold, shall be transferred to, vested in, and may be exercised by the authority to whom the same has been sold, in like manner as if such tramway was constructed by such authority under the powers conferred upon them by a provisional order under this Act, and in reference to the same they shall be deemed to be the promoters.

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No such resolution shall be valid unless a month's previous notice of the meeting, and of the purpose thereof, has been given in manner in which notices of meetings of such local authority are usually given, nor unless two thirds of the members constituting such local authority are present and vote at the meeting, and a majority of those present and voting concur in the resolution; provided that if in Scotland the local authority be the road trustees, it shall not be necessary that two thirds of such trustees shall be present at the meeting, but the resolution shall not be valid unless two thirds of the members present vote in favour of such resolution, and unless the said resolution is confirmed in like manner at another meeting called as aforesaid and held not less than three weeks and not more than six weeks thereafter; and it shall be lawful for the chairman of any such meeting, with the consent of a majority of the members present, to adjourn the same from time to time.

The local authority in any district may pay the purchase money and all expenses incurred by them in the purchase of any undertaking under the authority of this section out of the like rate, and shall have the like powers to borrow on the security of the same as if such expenses were incurred in applying for, obtaining, and carrying into effect any provisional order obtained by them under this Act.

Where the local rate is limited by law to a certain amount, and is by reason of such limitation insufficient for the payment of such purchase money and expenses, the Board of Trade may by provisional order extend the limit of such local rate to such amount as they shall think fit, and prescribe for the payment of such purchase money and expenses.

Every such provisional order shall be confirmed in like manner as a provisional order under the authority of part one of this Act, and until such confirmation such provisional order shall not have any operation.

Subject and according to the preceding provisions of this section two or more local authorities may jointly purchase any undertaking or so much of the same as is within their districts.

44. Where any tramway in any district has been opened for traffic for a period of six months the promoters may, with the consent of the Board of Trade, sell their undertaking to any person, persons, corporation, or company, or to the local authority of such district; and when any such sale has been made all the rights, powers, authorities, obligations, and liabilities of such promoters in respect to the undertaking sold shall be transferred to, vested in, and may be exercised by, and shall attach to the person, persons, corporation, company, or local authority to whom the same has been sold, in like manner as if such tramway was constructed by such person, persons, corporation, company, or local authority under the powers conferred upon them by special Act, and in reference to the same they shall be deemed to be the promoters.

Power of sale.

Provided always, that a local authority shall not purchase any undertaking under the provisions of this section unless they shall decide to make such purchase by resolution passed at a special meeting of the members constituting such local authority, which resolution shall be made in the same manner and shall be subject to the same conditions as to validity as resolutions made in regard to the purchases by the next preceding section authorised.

Where any purchase is made by any local authority under the provisions of this section, such local authority may pay the purchase money and all expenses incurred by them in making such purchase out of the like funds, and for such purposes shall have all and the like powers and be subject to all the like

33 & 34 Vict. conditions as if such purchase were made under the authority of the next  
c. 78. preceding section.

#### Tolls.

Tolls, &c.

45. The promoters or lessees of a tramway authorised by special Act may demand and take, in respect of such tramway, tolls and charges not exceeding the sums specified in such special Act, subject and according to the regulations therein specified (*h*). A list of all the tolls and charges authorised to be taken shall be exhibited in a conspicuous place inside and outside each of the carriages used upon the tramways.

#### Byelaws (*i*).

Byelaws by  
local authority.

46. Subject to the provisions of the special Act authorising any tramway and this Act,

The local authority of any district in which the same is laid down may, from time to time, make regulations as to the following matters:

The rate of speed to be observed in travelling upon the tramway:

The distances at which carriages using the tramway shall be allowed to follow one after the other:

The stopping of carriages using the tramway (*k*):

The traffic on the road in which the tramway is laid (*l*):

Promoters may  
make certain  
regulations.

The promoters of any tramway and their lessees may from time to time make regulations—

For preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them:

For regulating the travelling in or upon any carriage belonging to them (*m*):

And for better enforcing the observance of all or any of such regulations, it shall be lawful for such local authority and promoters respectively to make byelaws for all or any of the aforesaid purposes, and from time to time repeal

(*h*) **Tolls and charges.**—A tramway company scheduled to their Act of Parliament distinct agreements with the local authorities not to charge tramway passengers above a fixed fare; but they afterwards obtained legislative authority to substitute omnibuses on certain routes in lieu of the tramways, and to charge a higher fare on those routes. *Held*, that they had no power to increase the fare of passengers using the tramways only. *Edinburgh Street Tramways Co. v. Torbain*, 3 App. Cas. 58; 37 L. T. (N. S.) 288.

(*i*) **Byelaws.**—For general principles respecting the making of byelaws, and their validity and effect, see note to sec. 23 of the Mun. Corp. Act, 1882, ante, vol. i.

(*k*) **Stoppage.**—The Board of Trade regulations for steam trams required that in case of "impending danger" the engine shall be stopped. Where the driver of a steam tram carriage failed to stop on being signalled with a whip to do so by the driver of a pony which had become restive it was held that there was evidence of negligence to sustain the verdict of a jury against the tramway company. *Downing v. Birmingham and Midland Trams*, 5 T. L. R. 40. See also *Brocklehurst v. Manchester, &c. Steam Tramway Co.* post, p. 1289. Where byelaws of the Board of Trade required tram engines to be brought to a standstill at certain cross streets, and imposed a penalty on any "person" offending, it was held that the company were liable to be convicted for the neglect of their servant to observe the byelaw. *St. Helen's Tramways Co. v. Wood* (No. 2), 56 J. P. 71.

(*l*) **Traffic on the road.**—Where the driver was resting his tram engine, which was out of repair, and could not help emitting steam, it was held that he was rightly convicted of an offence against a byelaw of the Bd. of Trade forbidding the emission of "smoke or steam so as to constitute any reasonable ground of complaint to the passengers or the public," although only one passenger complained. *Hartley v. Wilkinson*, 49 J. P. 726. A conviction for emitting "smoke and steam" is good. *Davis v. Leach*, 50 J. P. 212. Under such a byelaw an information and conviction stating that the defendant permitted smoke to escape contrary to the byelaw, without stating in terms any reasonable ground of complaint to the passengers or the public, or either of them, are insufficient and bad. *Cottrell v. Lempiere*, 24 Q. B. D. 634; 59 L. J. M. C. 133. Where a regulation of the Bd. of Trade required tram engines to carry lights after sunset, it was held that, under the special Act, the regulation was valid as a regulation, that its subject matter need not have been dealt with by a byelaw, and that the company were liable for the neglect of one of their drivers to keep his lamp alight. *St. Helen's Tramways Co. v. Wood* (No 1), 60 L. J. M. C. 141; 56 J. P. 70.

(*m*) **Regulating the travelling.**—A byelaw which requires each passenger to pay his fare on demand, though before the end of the journey, is good. *Egginton v. Pearl*, 40 J. P. 56; 33 L. T. (N. S.) 428. A byelaw requiring passengers to deliver up their



or alter such byelaws, and make new byelaws, provided that such byelaws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect.

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Notice of the making of any byelaw under the provisions of this Act shall be published by the local authority or the promoters making the same by advertisement, according to the regulations contained in part one of the schedule C. to this Act annexed, and unless such notice is published in manner aforesaid such byelaw shall be disallowed by the Board of Trade.

No such byelaw shall have any force or effect which shall be disallowed by the Board of Trade within two calendar months after a true copy of such byelaw shall have been laid before the Board, and a true copy of every such proposed byelaw shall, not less than two calendar months before such byelaw shall come into operation, be sent to the Board of Trade, and shall be delivered to the promoters of such tramway if the same was made by the local authority, and to such local authority if made by the promoters.

47. Any such byelaw may impose reasonable penalties for offences against the same, not exceeding forty shillings for each offence, with or without further penalties for continuing offences, not exceeding for any continuing offence ten shillings for every day during which the offence continues; but all byelaws shall be so framed as to allow in every case part only of the maximum penalty being ordered to be paid.

Penalties may be imposed in byelaws.

48. The local authority shall have the like power of making and enforcing rules and regulations, and of granting licences with respect to all carriages using the tramways, and to all drivers, conductors, and other persons having charge of or using the same, and to the standings for the same, as they are for the time being entitled to make, enforce, and grant with respect to hackney carriages, and the drivers and other persons having the charge thereof, and to the standings for the same in the streets and district of or under the control of the local authority: Provided always, that in any district in which any of the powers aforesaid in relation to hackney carriages and the matter aforesaid in connexion therewith are vested in any authority other than the local authority of such district, such authority shall have and may exercise the powers by this section conferred upon the local authority (n).

Power to local authority to license drivers, conductors, &c.

#### Offences.

49. If any person wilfully obstructs any person acting under the authority of any promoters in the lawful exercise of their powers in setting out or

Penalty for obstruction of promoters in laying out tramway.

tickets on demand, or pay the fare, was held to be good, and a passenger who showed his ticket, but refused to deliver it up on demand, because he had gone only a part of the whole distance for which the ticket was available, was held to be liable to the penalty imposed by the byelaw. *Heap v. Day*, 51 J. P. 213; 34 W. R. 627. A passenger who loses his ticket and refuses to pay the fare demandable is liable to the penalty under such a byelaw. *Hanks v. Bridgman* (1896), 1 Q. B. 253; 65 L. J. M. C. 41. A byelaw requiring each passenger "to show his ticket (if any) when required so to do" is valid, although it gives no alternative to the production of the ticket, and is not limited to cases where there is intent to defraud. *Lowe v. Volp* (1896), 1 Q. B. 256; 65 L. J. M. C. 43.

Where the manager of a tramway company was summoned for breach of a byelaw regulating the number of passengers, it was held that the justices had no right to amend the summons by substituting the name of the company. *Oxford Tramway Co. v. Sankey*, 54 J. P. 564; 6 T. L. R. 151. A passenger who was incommoded was held to be entitled to prosecute the conductor of a tramcar for carrying more passengers than the byelaws allowed. *Badcock v. Sankey*, 54 J. P. 564; 6 T. L. R. 170. Where, under the regulations of a tramway company, a carriage was licensed to carry 32 passengers (16 inside and 16 outside), a conductor who allowed 27 inside and 5 on the footboard, making 32 in all, was held to have been rightly convicted. *Stokell v. Baldwin*, 8 T. L. R. 346.

(n) **Licences.**—The power of making and enforcing rules and regulations, and of granting licences to hackney carriages, drivers, and conductors in London, is vested in the Commissioner of Police of the Metropolis by order of the Secretary of State dated 10th March, 1871, and made in pursuance of the Metropolitan Public Carriage Act, 1869 (32 & 33 Vict. c. 115). A byelaw may be made under this section, without the assent of the tramway company, regulating the number of passengers and the extent of the accommodation. *Smith v. Butler*, 16 Q. B. D. 349; 50 J. P. 260.

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making, forming, laying down, repairing, or renewing a tramway, or defaces or destroys any mark made for the purposes of setting out the line of the tramway, or damages or destroys any property of any promoters, lessees, or licensees, he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalties for  
wilful injury  
or obstruction  
to tramways,  
&c.

50. If any person, without lawful excuse (the proof whereof shall lie on him), wilfully does any of the following things; namely—

Interferes with, removes, or alters any part of a tramway or of the works connected therewith;

Places or throws any stones, dirt, wood, refuse, or other material on any part of a tramway;

Does or causes to be done anything in such manner as to obstruct any carriage using a tramway (o), or to endanger the lives of persons therein or thereon;

Or knowingly aids or assists in the doing of any such thing;

he shall for every such offence be liable (in addition to any proceedings by way of indictment or otherwise to which he may be subject) to a penalty not exceeding five pounds.

Penalty on  
passengers  
practising  
frauds on  
the promoters.

51. If any person travelling or having travelled in any carriage or any tramway avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance, and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall, for every such offence, be liable to a penalty not exceeding forty shillings (p).

Transient  
offenders.

52. It shall be lawful for any officer or servant of the promoters or lessees of any tramway, and all persons called by him to his assistance, to seize and detain any person discovered either in or after committing or attempting to commit any such offence as in the next preceding section is mentioned, and whose name or residence is unknown to such officer or servant until such person can be conveniently taken before a justice, or until he be otherwise discharged by due course of law (q).

Penalty for  
bringing  
dangerous  
goods on the  
tramway.

53. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the bookkeeper or other servant with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding twenty pounds for every such offence (r), and it shall be lawful for such promoters or lessees to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

(o) **Obstruction of tramway.**—This section has been held not to affect the right of the public to use the street, but to apply only to wilful obstruction. *Hall v. Linton*, 7 Ct. of Sess. Cas. 4th series 2; 17 Scottish Law Reporter, 37.

(p) **Avoiding payment.**—Proceedings under this section are proceedings in respect of a criminal offence, so that an action for malicious prosecution will lie against a tramway company when a summons is dismissed. *Rayson v. South London Tramways Co.* (1893), 2 Q. B. 304; 62 L. J. Q. B. 593.

(q) **Detention of offenders.**—Where a conductor wrongfully gave a passenger into custody on a charge of attempting to pass counterfeit coin, the tramway company were held to be liable in an action for false imprisonment. *Furlong v. South London Tramways Co.*, 48 J. P. 329; 1 C. & E. 316. But where a conductor, contrary to express printed instructions, gave a passenger into custody without the authority of an inspector, the company were held not to be liable. *Charleston v. London Tramways Co.*, 36 W. R. 367; 4 T. L. R. 157; affirmed in C. A. 32 Sol. J. 557; 4 T. L. R. 629.

(r) **Sending dangerous goods.**—Under a railway Act which required every person sending goods of a dangerous nature to distinctly mark or state their nature on pain of forfeiting ten pounds, it was held that the Act made the sending of dangerous goods without notice a criminal offence, and that, therefore, guilty knowledge on the part of the sender was necessary to render him liable. *Hearne v. Garton*, 2 E. & E. 66; 28 L. J. M. C. 216.

54. If any person (except under a lease from or by agreement with the promoters, or under licence from the Board of Trade, as by this Act provided) uses a tramway or any part thereof with carriages having flange wheels(s) or other wheels suitable only to run on the rail of such tramway(t), such person shall for every such offence be liable to a penalty not exceeding twenty pounds.

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c. 78.

Penalty for persons using tramways with carriages with flange wheels, &c.

Promoters or lessees to be responsible for all damages.

#### Miscellaneous.

55. The promoters or lessees, as the case may be, shall be answerable for all accident, damages, and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages(u), and shall save harmless all road and other authorities, companies, or bodies, collectively and individually, and their officers and servants, from all damages and costs in respect of such accidents, damages, and injuries.

56. All tolls, penalties, and charges under this Act, or under any byelaw made in pursuance of this Act, may be recovered and enforced as follows; in England before two justices of the peace in manner directed by the Summary Jurisdiction Act, 1848, and any Act amending the same(x), and in Scotland . . .

Recovery of tolls, penalties, &c.  
11 & 12 Vict.  
c. 43.

(\*) **Flange wheels.**—An omnibus, with a lever, by which two small revolving discs or wheels were lowered, and, by running in the groove of a tram rail, were used for the purpose of guiding the ordinary bearing wheels of the omnibus upon the tram line, was held to be within the prohibition of this section. *Cottam v. Guest*, 6 Q. B. D. 70; 50 L. J. Q. B. 174.

(f) **Wheels suitable only to run on the rail.**—An injunction was granted to restrain an omnibus company from running on tramways omnibuses of which the wheels were specially adapted to run thereon, although they were without flanges, and were also adapted to run upon ordinary roads. *Liverpool Tramways Co. v. Liverpool Omnibus Co.* (1870), W. N. 126. But in a later case an injunction to restrain the running of omnibuses with wheels suitable for running either on the tram line or on the road was refused. *Manchester Tramway Co. v. Andrews*, 5 T. L. R. 470.

(u) **Liability for accidents, damages, &c.**—This section applies only to a wrongful act or default, and does not make the promoters or lessees answerable for mere accident caused, without negligence, by their use of tramcars. Where, therefore, a horse, becoming frightened, backed on to the tramway, and was run into by a tram engine, the company were, in the absence of negligence, held not to be liable. *Brooklehurst v. Manchester, &c. Steam Tramways Co.*, 17 Q. B. D. 118; 55 L. T. (N. S.) 406. Compare this case with *Downing v. Birmingham and Midland Trams*, ante, p. 1286. See also *McDermid v. Edinburgh Street Tramways Co.*, 12 Ct. of Sess. Cas. 4th series 15; 22 Scottish Law Reporter, 13. Where a tramway company, under statutory powers, ran their cars over the line of another company, and, in consequence of the defective state of the rails, a car ran off the line and injured a person standing near, it was held that they were liable for the injury sustained, although they did not know of the defect. *Sudler v. South Staffordshire, &c. Tramways Co.*, 23 Q. B. D. 17; 58 L. J. Q. B. 421.

A tramway company, acting under a provisional order, and using the best known system of electrical traction, was held not to be liable for thereby causing an electrical disturbance in the wires of a telephone company acting under licence from the Postmaster-General. *National Telephone Co. v. Baker* (1893), 2 Ch. 186; 62 L. J. Ch. 699. Without express statutory authority, or the authority of the road authorities, a tramway company has no right to cause a nuisance by removing snow from the tram line, scattering salt, and then heaping up the slush on to the sides of the streets. *Ogston v. Aberdeen District Tramways Co.* (1897), H. L. (Sc.) A. C. 111; 75 L. T. (N. S.) 633.

Where a tramway car was overcrowded, and a drunken man who was allowed to go on the top staggered against a woman and knocked her over the end of the car, the tramway company were held to be liable. *Murgatroyd v. Blackburn, &c. Tramways Co.*, 3 T. L. R. 451. A tramway company was held to be liable for injuries caused to a person by conductor pushing him off a tram car in order to prevent him from travelling without his ticket. *Smith v. North Metropolitan Tramways Co.*, 55 J. P. 630; 7 T. L. R. 459. Where a tram car, on the bell being pulled, slowed down but did not come to a standstill, but suddenly went on again with a jerk, and a passenger who was about to alight was thrown off and injured, the tramway company were held to be liable. *Hall v. London Tramways Co.*, 12 T. L. R. 611; overruling *Baird v. South London Tramways Co.*, 2 T. L. R. 756. See also the similar case of *Holland v. North Metropolitan Tramways Co.*, 3 T. L. R. 245.

(x) **Recovery of Penalties.**—For the time and manner of proceeding under the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), see note to sec. 227 of the Met.



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c. 78.

Right of user  
only.

Reservation  
of rights of  
owners. &c.  
of mines.

Reserving  
powers of  
street authori-  
ties to widen,  
&c. roads.

Power for  
local or police  
authorities to  
regulate traffic  
in roads.

Reservation  
of right of  
public to use  
roads.

Regulating  
inquiries  
before referee  
appointed by  
the Board of  
Trade.

**57.** Notwithstanding anything in this Act contained the promoters of any tramway shall not acquire or be deemed to acquire any right other than that of user of any road along or across which they lay any tramway (y) . . .

**58.** [*Rep. by 56 & 57 Vict. c. 54. Statute Law Revision.*]

**59.** Nothing in this Act shall limit or interfere with the rights of any owner, lessee, or occupier of any mines or minerals lying under or adjacent to any road along or across which any tramway shall be laid to work such mines and minerals, nor shall any such owner, lessee, or occupier be liable to make good or pay compensation for any damage which may be occasioned to such tramway by the working in the usual and ordinary course of their mines or minerals.

**60.** Nothing in this Act shall take away or affect any power which any road authority (z), or the owners, commissioners, undertakers, or lessees of any railway, tramway, or inland navigation, may have by law to widen, alter, divert, or improve any road, railway, tramway, or inland navigation.

**61.** Nothing in this Act shall limit the powers of the local authority or police in any district to regulate the passage of any traffic along or across any road along or across which any tramways are laid down (a), and such authority or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the promoters or of lessees as to the traffic of other persons.

**62.** Nothing in this Act or in any byelaw made under this Act shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable only to run on the rail of the tramway (b).

**63.** Every inquiry which by this Act the Board of Trade are empowered to make or direct shall be made in accordance with the following provisions:

1. The inquiry shall be held in public before an officer to be appointed in that behalf by the Board, hereinafter called the referee, and whose appointment shall be by writing, which shall specify all the matters referred to him:
2. Ten days notice at the least (c) shall be given by the referee to the parties upon whose representation the Board of Trade shall have directed the inquiry, of the time and place at which the inquiry is to be commenced:
3. The inquiry shall be commenced at the time and place so appointed, and the referee may adjourn the inquiry from time to time as may be necessary to such time and place as he may think fit:

Man. Act, 1855, *ante*, vol. i. The court has jurisdiction under the Companies Act, 1862 (25 & 26 Vict. c. 89), sec. 85, to restrain proceedings for the recovery of penalties against a company for the winding up of which a petition has been presented. *Briton Medical, &c. Assurance Association, In re*, 32 Ch. D. 503; 55 L. J. Ch. 416. But where a receiver of a tramway undertaking and property had been appointed on behalf of the debenture holders, it was held that the local authority were entitled to distrain, without interference by the debenture holders, for the amount of penalties incurred by the company for non-repair of their rails. *Pegge v. Neath District Tramways* (1895), 2 Ch. 508; 64 L. J. Ch. 737. On appeal, however, an order was made by consent directing the receiver to apply the moneys in his hands, after paying the necessary working expenses, first in paying the costs of the county council, and secondly in putting the line in repair, and that the county council should not in the meantime enforce any penalties for the non-repair of the line without the leave of the court. *Ib.* (1896), 1 Ch. 684; 65 L. J. Ch. 536.

(y) **Section 57.**—The words omitted were repealed by 56 & 57 Vict. c. 54 (Statute Law Revision).

(z) **Powers of road authority.**—See *Bristol Tramways Co. v. Bristol (Mayor, &c., of)*, *ante*, p. 1282.

(a) **Regulation of traffic.**—The power to regulate the passage of traffic in the streets of the City of London and its liberties is vested in the Commissioner of Police of the City of London, and in other parts of London in the Commissioner of Police of the Metropolis. See the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), secs. 51—53; and the Metropolitan Streets Act, 1867 (30 & 31 Vict. c. 134).

(b) **Flange wheels, &c.**—See sec. 54, *ante*, and cases cited thereunder.

(c) **Ten days at least**, i.e. clear days, exclusive of the day of notice and the day of commencing the inquiry. *Reg. v. Shropshire JJ.*, *ante*, vol. i. p. 291.

4. The referee by summons shall, on the application of any party interested in the inquiry, require the attendance before himself, at a place and time to be mentioned in the summons, of any person to be examined as a witness before him, and every person summoned shall attend the referee, and answer all questions touching the matter to be inquired into, and any person who wilfully disobeys any such summons or refuses to answer any question put to him by such referee for the purposes of the said inquiry shall be liable to a penalty not exceeding five pounds: Provided always, that no person shall be required to attend in obedience to any such summons unless the reasonable charges of his attendance shall have been paid or tendered to him, and no person shall be required in any case in obedience to any such summons to travel more than ten miles from his place of abode:
5. The referee may and shall administer an oath, or an affirmation where an affirmation in lieu of an oath would be admitted in a court of justice, to any person tendered or summoned as a witness on the inquiry:
6. Any person who upon oath or affirmation wilfully gives false evidence before the referee shall be deemed guilty of perjury:
7. The referee shall make his report to the Board of Trade in writing, and shall deliver copies of the report upon request to all or any of the parties to the inquiry.

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c. 78.

64. The Board of Trade may from time to time make, and, when made, may rescind, annul, or add to, rules with respect to the following matters (*d*):

Rules for  
carrying Act  
into effect.

1. The proceedings to be had before the Board under this Act:
2. The payment of money or lodgment of securities by way of deposits, the repayment and forfeiture of the same, the investment of the same, the amount and payment of interest or dividends from time to time accruing due on such deposits:
3. The plans and sections of any works to be deposited by promoters under this Act:
4. As to any other matter or thing in respect of which it may be expedient to make rules for the purpose of carrying this Act into execution.

Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed.

Any rules made in pursuance of this section shall be laid before Parliament within three weeks after they are made if Parliament be then sitting, and if Parliament be not then sitting within three weeks after the beginning of the then next session of Parliament.

#### SCHEDULE A.

Sec 3.

#### PART I.

| Districts of Local Authorities.               | Description of Local Authority of District set opposite its Name. | The Local Rate.                                  |
|-----------------------------------------------|-------------------------------------------------------------------|--------------------------------------------------|
| ENGLAND AND WALES.                            |                                                                   |                                                  |
| The City of London and the liberties thereof. | The Mayor, Aldermen, and Commons of the City of London.           | The consolidated sewers rate.                    |
| The Metropolis (1) .....                      | The Metropolitan Board of Works ( <i>e</i> ).                     | The metropolitan consolidated rate ( <i>f</i> ). |
| *            *                                | *            *            *                                       | *            *                                   |

NOTE.—(1) "The Metropolis" shall include all parishes and places in which the Metropolitan Board of Works have power to levy a main drainage rate, except the City of London and the liberties thereof.

\*            \*            \*            \*            \*            \*

(*d*) Rules.—The Board of Trade rules now in force under this section are dated August, 1886.

(*e*) Met. Bd. Wks.—Now the County Council. See note (*r*) *ante*, p. 1277.

(*f*) Consolidated rate.—Now the county rate. See note (*f*) *ante*, p. 999.

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c. 78.

## PART II.

Sec. 3.

## Districts of Road Authorities.

Description of Road Authority of Districts  
set opposite its Name.

Parishes within the Metropolis (1) mentioned in schedule A. to the Metropolis Management Act, 1855.

The vestries appointed for the purposes of the Metropolis Management Act, 1855.

Districts within the Metropolis (1) formed by the union of the parishes mentioned in schedule B. to the Metropolis Management Act, 1855.

The board of works for the district appointed for the purpose of the Metropolis Management Act, 1855.

NOTE.—(1) The term "Metropolis" has in this part the same meaning as in part one of this schedule.

Sec. 4.

## PART III.

*Approval of Application by Local Authority for a Provisional Order.*

The approval of any intended application for a provisional order by a local authority shall be in manner following; that is to say,

A resolution approving of the intention to make such application shall be passed at a special meeting of the members constituting such local authority. Such special meeting shall not be held unless a month's previous notice of the same, and of the purpose thereof, has been given in manner in which notices of meetings of such local authority are usually given.

Such resolution shall not be passed unless two thirds of the members constituting such local authority are present and vote at such special meeting and a majority of those present and voting concur in the resolution; provided that if in Scotland the local authority be the road trustees, it shall not be necessary that two thirds of such trustees shall be present at the meeting, but the resolution shall not be valid unless two thirds of the members present vote in favour of such resolution, and unless the said resolution is confirmed in like manner at another meeting called as aforesaid and held not less than three weeks and not more than six weeks thereafter. Where any such resolution relating to the Metropolis as the same is defined in part one of this schedule, or to any district in Scotland of which road trustees are the local authority, has been passed in manner aforesaid, the intended application to which such resolution relates shall be deemed to be approved.

Sec. 6.

## SCHEDULE B.

## PROVISIONAL ORDERS.

## PART I.

*Advertisement in October or November of intended Application.*

(1) Every advertisement is to contain the following particulars:

1. The objects of the intended application.
2. A general description of the nature of the proposed works, if any.
3. The names of the townlands, parishes, townships, and extra-parochial places in which the proposed works, if any, will be made.
4. The times and places at which the deposit under part two of this schedule will be made.
5. An office, either in London or at the place to which the intended application relates, at which printed copies of the draft provisional order, when deposited, and of the provisional order, when made, will be obtainable as hereinafter provided.

(2) The whole notice is to be included in one advertisement, which is to be headed with a short title descriptive of the undertaking.



(3) The advertisement is to be inserted once at least in each of two successive weeks in some one and the same newspaper published in the district affected by the proposed undertaking, where the proposed works (if any) will be made; or if there be no such newspaper, then in some one and the same newspaper published in the county in which every such district, or some part thereof, is situate; or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county.

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c. 78.

(4) The advertisement is also, in every case, to be inserted once at least in the London or Edinburgh Gazette, accordingly as the district is situate in England or Scotland.

PART II.

Section 6.

*Deposit on or before 30th November.*

(1) The promoters are to deposit—

1. A copy of the advertisement published by them.
2. A proper plan and section of the proposed works, if any, such plan and section to be prepared according to such regulations as may from time to time be made by the Board of Trade in that behalf.

(2) The documents aforesaid are to be deposited for public inspection—

In England, in the office of the clerk of the peace for every county, riding, or division, and of the parish clerk of every parish and the office of the local authority of every district in or through which any such undertaking is proposed to be made; in Scotland . . .

(3) The documents aforesaid are also to be deposited at the office of the Board of Trade.

PART III.

Section 6.

*Deposit on or before 23rd December.*

(1) The promoters are to deposit at the office of the Board of Trade—

1. A memorial signed by the promoters, headed with a short title descriptive of the undertaking (corresponding with that at the head of the advertisement), addressed to the Board of Trade, and praying for a provisional order.
2. A printed draft of the provisional order as proposed by the promoters, with any schedule referred to therein.
3. An estimate of the expense of the proposed works, if any, signed by the persons making the same.

(2) They are also to deposit a sufficient number of such printed copies at the office named in that behalf in the advertisement; such copies to be there furnished to all persons applying for them at the price of not more than one shilling each.

(3) The memorial of the promoters (to be written on foolscap paper, bookwise, with quarter margin) is to be in the following form, with such variations as circumstances require:

*[Short title of undertaking.]*

To the Board of Trade,

The memorial of the promoters of *[short title of undertaking]*:  
Sheweth as follows;

1. Your memorialists have published, in accordance with the requirements of the Tramways Act, 1870, the following advertisement:

*[Here advertisement to be set out verbatim.]*

2. Your memorialists have also deposited, in accordance with the requirements of the said Act, copies of the said advertisement and *[here state deposit of the several matters required by Act]*.

Your memorialists therefore pray that a provisional order may be made in the terms of the draft proposed by your memorialists, or in such other terms as may seem meet.

A.B.

C.D.

Promoters.

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Section 13.

## PART IV.

*Deposit and Advertisement of Provisional Order when made.*

(1) The promoters are to deposit printed copies of the provisional order, when settled and made, for public inspection in the offices of clerks of the peace and sheriff clerks, where the documents required to be deposited by them under part two of this schedule were deposited.

(2) They are also to deposit a sufficient number of such printed copies at the office named in that behalf in the advertisement, such copies to be there furnished to all persons applying for them at the price of not more than            each.

(3) They are also to publish the provisional order as an advertisement once in the local newspaper in which the original advertisement of the intended application was published, or, in case the same shall no longer be published, in some other newspaper published in the district.

Section 19.

## SCHEDULE C.

## PART I.

*Notice and Deposit of Lease by Local Authority.*

One month before any lease is submitted to the Board of Trade notice of the intention to make such lease shall be given by advertisement.

(1) Every advertisement is to contain—

1. The term of the lease.

2. The rent reserved.

3. A general description of the covenants and conditions contained therein.

4. The place where the same is deposited for public inspection.

(2) The advertisement is to be inserted once at least in each of two successive weeks in some one and the same newspaper published in the district affected by the proposed lease; or if there be no such newspaper, then in some one and the same newspaper published in the county in which such district, or some part thereof, is situate; or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county.

(3) The advertisement is also, in every case, to be inserted once at least in the London or Edinburgh Gazette, accordingly as the district to which it relates is situate in England or Scotland.

Section 46.

*Deposit.*

A copy of such lease shall be deposited for public inspection during office hours at the office of the local authority or at some other convenient place within the district to which such lease relates.

## PART II.

*Notice of Byelaws.*

Within one month after the making of any byelaw notice of the making of the same, and a copy of such byelaw, shall be published by advertisement in manner following:

(1) The advertisement is to be inserted once at least in each of two successive weeks in some one and the same newspaper published in the district affected by such byelaw; or if there be no such newspaper, then in some one and the same newspaper published in the county in which such district, or some part thereof, is situate; or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county.

(2) The advertisement is also, in every case, to be inserted once at least in the London or Edinburgh Gazette, accordingly as the district to which it relates is situate in England or Scotland.

## LONDON COUNTY TRAMWAYS ACT, 1896.

**59 & 60 Vict. ch. li.** An Act to enable the London County Council to work their Tramways, and for other purposes. [2nd July, 1896]

[*Preamble recites Tramways Act, 1870.*]

1. This Act may be cited as the London County Tramways Act, 1896.

Short title.

2. It shall be lawful for the council to exercise with respect to any tramways authorised by the local Acts mentioned in the schedule to this Act which have been or shall be purchased or acquired by them under their statutory powers the same powers of working such tramways respectively as were possessed by the company or companies respectively owning such tramways, and the council may provide, place, and run carriages thereon, and provide such horses, cars, fixed and movable plant, harness, and apparatus as may be requisite or convenient for enabling the council to exercise such powers, and they may employ such persons as may be requisite or convenient for working the tramways for the time being worked by them (*e*):

Power to council to work tramways.

And the several provisions relating to the working of the tramways, and the taking of tolls, rates, and charges therefor, contained in any Act relating to any such tramway, shall extend and apply mutatis mutandis to and in relation to such tramway for the time being worked by the council, and to the council instead of to the company.

3. The council may also erect or construct and hold such stables and buildings as may be requisite or convenient in connexion with the working of such tramways: But nothing in this Act shall exonerate the council from any indictment, action, or other proceeding for nuisance in the event of any nuisance being caused by them by the exercise of the powers of this section (*f*).

As to stables and buildings.

4. The council may enter into and carry into effect any agreement with any company owning any tramway connected with any tramway of the council with respect to the exercise of running powers either by such company over the tramways of the council or by the council over the tramways of such company or any part thereof respectively: Provided that, during the currency of any such agreement, all enactments, byelaws, and regulations relating to the use of or the running of carriages upon the tramways used, and the taking of tolls, rates, and charges therefor, shall, so far as applicable, extend and apply mutatis mutandis to and shall be observed by the council or the company, as the case may be, exercising such running powers. None of the powers in this section contained shall be exercised in the county of Middlesex without the consent of the county council of that county.

Running powers.

5. For the protection of the mayor, aldermen, and burgesses of the county borough of West Ham, in the county of Essex (in this section referred to respectively as "the corporation" and "the borough"), the following provisions shall have effect:

For the protection of the corporation of West Ham.

Nothing in this Act shall authorise the council to enter into or carry into effect any agreement or arrangement with respect to the exercise of running powers by the council over any tramway situate within the limits of the borough without the consent in writing of the corporation under the hand of the town clerk of the borough (which consent shall not be unreasonably withheld), or shall authorise the council (without the like consent) to acquire, hold, provide, or erect, within the borough, any stables or other buildings, or fixed engines, plant, or machinery in connexion with the exercise of any of the powers conferred upon the council by this Act:

(*e*) **Power to work tramways.**—The London Coun. Counc. (Vauxhall Bridge Tramways) Act, 1896 (59 & 60 Vict. ch. cxi.), authorises the county council to construct, and, subject to certain conditions, to work tramways over Vauxhall Bridge and the approaches thereto.

(*f*) **Nuisance.**—An injunction was granted to restrain a tramway company from continuing a nuisance arising from the smell from their stables. *Rapier v. London Tramways Co.* (1893), 2 Ch. 588; 63 L. J. Ch. 36. As to the liability of tramway companies for accidents, damages, &c., see sec. 55 of the Tramways Act, 1870, and note thereto, *ante*.



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If at any time any dispute or difference shall arise between the corporation on the one hand and the council or the company or the council and the company on the other hand as to the reasonableness of granting such consent, or in any way as to the conditions to be attached thereto, the same shall from time to time be referred to the determination and award of an arbitrator, to be appointed at the request either of the council or the corporation by the Board of Trade, and the decision of such arbitrator both as to the matters in question and as to the payment of the costs of and incidental to the reference and award shall be final and conclusive and binding on all parties.

Further  
provisions as  
to exercise  
of running  
powers.

6. Nothing in this Act shall authorise the council to enter into or carry into effect any agreement or arrangement with respect to the exercise of running powers by the council over any tramway situate without the administrative county of London, unless with the consent in writing of the council of the county and the district council of the district within which such tramway is situate (which consent shall not be unreasonably withheld).

If at any time any dispute or difference shall arise between the council on the one hand and any such council or district council on the other hand as to the reasonableness of granting such consent, or in any way as to the conditions to be attached thereto, the same shall from time to time be referred to the determination and award of an arbitrator to be appointed at the request either of the council or of such other council or district council by the Board of Trade, and the decision of such arbitrator both as to the matters in question and as to the payment of the costs of and incidental to the reference and award shall be final and conclusive and binding on all parties.

As to byelaws.

7. If and so long as the council under the powers of this Act work any of the tramways mentioned in this Act the Board of Trade may make regulations and byelaws for all or any of the purposes for which under section forty-six of the Tramways Act, 1870, the local authority or the promoters of a tramway may make regulations and byelaws.

Any penalty imposed by any such byelaw may be sued for by persons affected by the offence in respect of which such penalty is imposed.

Notice of any such byelaw shall before such byelaw becomes operative be published by the council in such manner as the Board of Trade may prescribe.

Prohibiting  
the raising  
of fares  
on Sundays  
and holidays.  
Conveyance  
of mails.

8. It shall not be lawful for the council or their lessees or any company or person working or using the tramways to take or demand on Sunday or on any bank or other public holiday any higher tolls or charges than those levied by them on ordinary week days.

9. Notwithstanding any provision in any Act or provisional order relating to any tramway which has been or shall be purchased or acquired by the council, the Conveyance of Mails Act, 1893 (*g*), shall extend and apply to the council, and to any such tramway as aforesaid which is worked by the council under the powers of this Act as if such tramway had been authorised by an Act of Parliament passed after the first day of January one thousand eight hundred and ninety-three.

As to payments  
under this Act.

10. All costs and expenses of the council in the execution of this Act (except so far as they may be otherwise provided for by this or any other Act) shall be defrayed as payments for general county purposes within the meaning of the Local Government Act, 1888, and the costs, charges, and expenses preliminary to and of and incidental to the preparing, applying for, obtaining, and passing of this Act shall be paid by the council in like manner.

(*g*) **Conveyance of Mails Act, 1893** (56 & 57 Vict. c. 38).—This Act requires every company, body, or person owning or working any tramway authorised by any Act passed after the 1st January, 1893, to carry mails under certain conditions, if required by the Postmaster-General, for such remuneration as may be agreed upon, or, in default of agreement, as may be determined by the Railway and Canal Commission.

The SCHEDULE referred to in the foregoing Act.

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PART I.

ACTS UNDER WHICH TRAMWAYS IN LONDON HAVE BEEN AUTHORISED.

| Name of Tramway.                          | Special Acts or Acts confirming Provisional Orders relating to the Tramways.                                                                                                                                              |                                                                                                                                                                                                 |
|-------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Harrow Road and Paddington .              | 49 & 50 Vict. ch. civ.<br>54 & 55 Vict. ch. clxviii.                                                                                                                                                                      | 56 & 57 Vict. ch. xli.<br>57 & 58 Vict. ch. lxxiii.                                                                                                                                             |
| Highgate Hill.....                        | 45 & 46 Vict. ch. lxx.                                                                                                                                                                                                    |                                                                                                                                                                                                 |
| Lea Bridge, Leyton, and Wal-<br>thamstow. | 44 & 45 Vict. ch. clxx.<br>47 & 48 Vict. ch. cexliv.                                                                                                                                                                      | 52 & 53 Vict. ch. clviii.<br>53 & 54 Vict. ch. clxxxii.                                                                                                                                         |
| London (h).....                           | 32 & 33 Vict. ch. xciv.<br>32 & 33 Vict. ch. xcv.<br>33 & 34 Vict. ch. clxvii.<br>33 & 34 Vict. ch. clxxxiii.<br>33 & 34 Vict. ch. clxxiv.<br>36 & 37 Vict. ch. lv.<br>36 & 37 Vict. ch. cciv.<br>36 & 37 Vict. ch. ccxv. | 36 & 37 Vict. ch. cexxiii.<br>43 & 44 Vict. ch. clv.<br>47 & 48 Vict. ch. lvii.<br>51 & 52 Vict. ch. cxliv.<br>52 & 53 Vict. ch. cxxiv.<br>53 & 54 Vict. ch. xxiv.<br>57 & 58 Vict. ch. cxxxii. |
| London, Camberwell, and Dul-<br>wich.     | 45 & 46 Vict. ch. cexxiii.<br>46 & 47 Vict. ch. cexxvii.                                                                                                                                                                  | 48 & 49 Vict. ch. excix.<br>50 & 51 Vict. ch. clxxxiii.                                                                                                                                         |
| London, Deptford, and Green-<br>wich.     | 42 & 43 Vict. ch. lxxii.<br>44 & 45 Vict. ch. clxxxiii.<br>52 & 53 Vict. ch. cxlviii.                                                                                                                                     | 54 & 55 Vict. ch. ccix.<br>56 & 57 Vict. ch. cexii.                                                                                                                                             |
| London Southern.....                      | 45 & 46 Vict. ch. celvii.                                                                                                                                                                                                 | 47 & 48 Vict. ch. exci.                                                                                                                                                                         |
| London Street (i).....                    | 33 & 34 Vict. ch. clxxi.<br>36 & 37 Vict. ch. ccxv.<br>36 & 37 Vict. ch. cexxi.<br>37 & 38 Vict. ch. clxxxiii.<br>40 & 41 Vict. ch. cexix.<br>42 & 43 Vict. ch. clxxxix.                                                  | 45 & 46 Vict. ch. clxxii.<br>47 & 48 Vict. ch. xciv.<br>48 & 49 Vict. ch. cxv.<br>50 & 51 Vict. ch. iv.<br>51 & 52 Vict. ch. lxxviii.                                                           |
| North London.....                         | 42 & 43 Vict. ch. exciii.<br>45 & 46 Vict. ch. exciv.<br>46 & 47 Vict. ch. cxlii.                                                                                                                                         | 47 & 48 Vict. ch. excii.<br>50 Vict. ch. xxxix.                                                                                                                                                 |
| North Metropolitan.....                   | 32 & 33 Vict. ch. ci.<br>33 & 34 Vict. ch. clxxii.<br>34 & 35 Vict. ch. clxxix.<br>36 & 37 Vict. ch. lxxviii.<br>37 & 38 Vict. ch. xlv.<br>40 & 41 Vict. ch. cxi.<br>43 & 44 Vict. ch. xevii.                             | 45 & 46 Vict. ch. cxxxvi.<br>47 & 48 Vict. ch. clxviii.<br>48 & 49 Vict. ch. xxvi.<br>50 & 51 Vict. ch. xii.<br>51 & 52 Vict. ch. cxxii.<br>53 & 54 Vict. ch. xlvi.<br>55 & 56 Vict. ch. clx.   |
| South Eastern Metropolitan.....           | 47 & 48 Vict. ch. cxlvii.                                                                                                                                                                                                 | 51 & 52 Vict. ch. clxxxvi.                                                                                                                                                                      |

(h) **The London Tramway Co. (Ltd.) Act, 1896** (59 & 60 Vict. ch. clxxxix.), authorises the company to construct further tramways, and to make agreements with the county council as to purchase of tramways, and provides by sec. 32 that "The tramways by this Act authorised shall for the purposes of the London County Tramways Act, 1896, be deemed to be tramways authorised by the local Acts relating to the tramways of the company mentioned in the schedule to that Act."

(i) **London Street Tramways Co.**—In addition to the above Acts relating to this company, there is the London Street Tramways Act, 1895 (58 Vict. ch. xxxii.), which, *inter alia*, authorises the company to take from the London County Council leases of any tramways, and works connected therewith, owned by the council.

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| Name of Tramway.                    | Special Acts or Acts confirming Provisional Orders relating to the Tramways.                                                                                                                                                                                    |                                                                                                                                                                                          |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| South London.....                   | 42 & 43 Vict. ch. cxvii.<br>43 & 44 Vict. ch. xvi.<br>44 & 45 Vict. ch. clxiv.<br>(City of London, and Metropolitan Tramways Order)                                                                                                                             | 44 & 45 Vict. ch. clxxxiv.<br>45 & 46 Vict. ch. excii.<br>46 & 47 Vict. ch. clxvii.                                                                                                      |
| West Metropolitan or London United. | 36 & 37 Vict. ch. lxxxv.<br>(Southall, Ealing, and Shepherd's Bush Order)<br>36 & 37 Vict. ch. ccxv.<br>(West London Tramways Order)<br>39 & 40 Vict. ch. cl.<br>(Shepherd's Bush Order)<br>44 & 45 Vict. ch. clxiv.<br>(Shepherd's Bush and Hammersmith Order) | 45 & 46 Vict. ch. ccv.<br>47 & 48 Vict. ch. c.<br>50 & 51 Vict. ch. cxcevi.<br>52 & 53 Vict. ch. ccii.<br>54 & 55 Vict. ch. cxxxii.<br>56 & 57 Vict. ch. xlviii.<br>58 & 59 Vict. ch. c. |
| Woolwich and South East London.     | 43 & 44 Vict. ch. clxxiii.                                                                                                                                                                                                                                      | 44 & 45 Vict. ch. cv.                                                                                                                                                                    |

## PART II.

## ACTS AND PROVISIONAL ORDERS UNDER WHICH THE COUNCIL ARE PROCEEDING TO PURCHASE THE TRAMWAYS THEREBY AUTHORISED.

The North Metropolitan Tramways Act, 1871.

{ The Metropolitan Street Tramways (Extension, &amp;c.) Order, 1873.

{ The Pimlico, Peckham, and Greenwich Street Tramways (Extensions) Order, 1873.

{ The Metropolitan Tramways Orders Confirmation Act, 1873.

{ The London Tramways Company (Limited) (Purchase) Act, 1873.

{ The Tramways Orders Confirmation Act, 1874.

{ The London Street Tramways (Extensions) Act, 1884.

{ The London Street Tramways (Extensions) Act, 1885.

{ The London Street Tramways (Extensions) Act, 1887.



**WATER.**

|                                                                                              |               |
|----------------------------------------------------------------------------------------------|---------------|
| 10 Vict. c. 17 (" Waterworks Clauses Act, 1847 ").....                                       | page 1299     |
| 26 & 27 Vict. c. 93 (" Waterworks Clauses Act, 1863 ").....                                  | 1314          |
| 48 & 49 Vict. c. 34 (" Water Rate Definition Act, 1885 ").....                               | 1318          |
| 50 & 51 Vict. c. 21 (" Water Companies (Regulation of Powers) Act, 1887 ").....              | 1319          |
| 15 & 16 Vict. c. 84 (" Metropolis Water Act, 1852 ").....                                    | 1320          |
| 34 & 35 Vict. c. 113 (" Metropolis Water Act, 1871 ").....                                   | 1324          |
| 15 & 16 Vict. ch. clix. (" West Middlesex Waterworks Act, 1852 ").....                       | 1334          |
| 55 & 56 Vict. ch. cxxx. (" London Water Act, 1892 ").....                                    | 1341          |
| 57 & 58 Vict. ch. ccxii. (" London County Council (General Powers) Act, 1894 "), sec. 4..... | note (f) 1330 |

**WATERWORKS CLAUSES ACT, 1847.**

**10 Vict. c. 17.** An Act for consolidating in One Act certain Provisions usually contained in Acts authorising the making of Waterworks for supplying Towns with Water. [23rd April, 1847]

[*Preamble.*] This Act shall extend only to such waterworks as shall be authorised by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith, and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act (a).

Extent of Act.

And with respect to the construction of this Act and any Act incorporated therewith, be it enacted as follows :

Interpretations in this Act :

2. The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed authorising the construction of waterworks, and with which this Act shall be incorporated; and the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special Act," had been used; and the expression "the lands and streams" shall mean the lands and streams of water which shall by the special Act be authorised to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the waterworks, and the works connected therewith, by the special Act authorised to be constructed; and the expression "the undertakers" shall mean the persons by the special Act authorised to construct the waterworks.

"Special Act:"

"Prescribed:"  
"The lands and streams:"

"The undertaking:"

"The undertakers."

(a) **Application of Act to London water companies.**—With the exception of certain provisions, which exceptions are noted under the respective sections, this Act is incorporated with the following Acts, viz.: the *New River Company's Acts*, 1852 (15 & 16 Vict. ch. clx.) and 1896 (59 & 60 Vict. ch. cxxxix.); the *East London Waterworks Acts*, 1853 (16 & 17 Vict. ch. clxvi.), 1867 (30 & 31 Vict. ch. cxlix.), 1886 (49 & 50 Vict. ch. lxxxii.), and 1894 (57 & 58 Vict. ch. clxii.); the *Southwark and Vauxhall Water Acts*, 1852 (15 & 16 Vict. ch. clviii.), 1884 (47 & 48 Vict. ch. cci.), 1886 (49 & 50 Vict. ch. lxxxv.), 1891 (54 & 55 Vict. ch. cxviii.), and 1894 (57 & 58 Vict. ch. clxiv.); the *West Middlesex Waterworks Act*, 1852 (15 & 16 Vict. ch. clix.); the *Lambeth Waterworks Acts*, 1848 (11 Vict. ch. vii.), 1871 (34 & 35 Vict. ch. lxxxiii.), 1883 (46 & 47 Vict. ch. xxviii.), and 1896 (59 & 60 Vict. ch. liv.); the *Chelsea Waterworks Acts*, 1852 (15 & 16 Vict. ch. clvi.), 1875 (38 & 39 Vict. ch. cviii.), and 1896 (59 & 60 Vict. ch. lxxxii.); the *Grand Junction Waterworks Acts*, 1852 (15 & 16 Vict. ch. clvii.), 1861 (24 & 25 Vict. ch. cli.), and 1878 (41 & 42 Vict. ch. cxxxiv.); and the *Kent Waterworks Act*, 1864 (27 & 28 Vict. ch. cxlvi.). These comprise the whole of the companies supplying London with water. For a complete list of their special Acts, see note to the schedule of the London Water Act, 1892, *post*.

|                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10 Vict. c. 17.                              | <b>3.</b> The following words and expressions, in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say,                                                                                                                                                                                                                                                                        |
| Interpretations in this and the special Act: | Words importing the singular number shall include the plural number, and words importing the plural number only shall include also the singular number:                                                                                                                                                                                                                                                                                                                                                                                          |
| Number:                                      | Words importing the masculine gender shall include females:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Gender:                                      | The word "person" shall include a corporation, whether aggregate or sole:                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| "Person":                                    | The word "lands" shall include messuages, lands, tenements, and hereditaments, or heritages of any tenure:                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| "Lands":                                     | The word "streams" shall include springs, brooks, rivers, and other running waters:                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| "Streams":                                   | The word "street" shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place within the limits of the special Act:                                                                                                                                                                                                                                                                                                                                                                                 |
| "Street":                                    | The expression "the waterworks" shall mean the waterworks, and the works connected therewith, by the special Act authorised to be constructed:                                                                                                                                                                                                                                                                                                                                                                                                   |
| "The water-works":                           | The expression "water rate" shall include any rent, reward, or payment to be made to the undertakers for a supply of water:                                                                                                                                                                                                                                                                                                                                                                                                                      |
| "Water rate":                                | The word "month" shall mean calendar month:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| "Month":                                     | The expression "superior courts," where the matter submitted to the cognizance of the court arises in England . . . shall mean Her Majesty's superior courts of record at Westminster . . .:                                                                                                                                                                                                                                                                                                                                                     |
| "Superior courts":                           | The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath:                                                                                                                                                                                                                                                                                                                          |
| "Oath":                                      | The word "county" shall include riding or other division of a county having a separate commission of the peace, and in Scotland stewardry, and any ward or other division of a county or stewardry having a separate sheriff, and it shall also include county of a city or county of a town:                                                                                                                                                                                                                                                    |
| "County":                                    | The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises; and if such matter arise in respect of lands or streams situated not wholly in one jurisdiction, shall mean a justice acting for the county or place where any part of such lands or streams shall be situated; and where any matter is authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices met and acting together: |
| "Justice":                                   | * * * * *                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| "Two justices":                              | The expression "quarter sessions" shall mean quarter sessions as defined in the special Act, and if such expression be not there defined it shall mean the court of general or quarter sessions of the peace which shall be held at the place nearest to the waterworks, or the principal office thereof, for the county or place in which the waterworks, or the principal office thereof, is situate, or for some division of such county having a separate commission of the peace:                                                           |
| "Quarter sessions":                          | The expression "the town commissioners" shall mean the parties defined under that title in the special Act, and where no such parties shall be there defined shall mean the commissioners, trustees, or other parties having the control or management of the streets under any Act for paving or improving the town or district to be supplied with water under the special Act:                                                                                                                                                                |
| "The town commissioners":                    | The word "inspector" shall mean an officer appointed under any local Act relating to the town or district supplied with water under the special Act, for the purpose of inspecting or superintending works connected with the paving, drainage, or supply of water of such town or district, or an officer appointed under any general Act for executing the like duties with respect to such town or district together with other towns or districts.                                                                                           |
| "Inspector":                                 | And with respect to citing this Act or any part thereof, be it enacted as follows:                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <i>Citing the Act.</i>                       | <b>4.</b> In citing this Act in other Acts of Parliament, and in legal instruments, it shall be enough to use the expression "The Waterworks Clauses Act, 1847."                                                                                                                                                                                                                                                                                                                                                                                 |
| Short title of this Act.                     | <b>5.</b> For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such                                                                                                                                                                                                                                                                                          |
| Form in which portions of this               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

matter, and to enact that the clauses so described, or that this Act with the exception of the clauses so described, shall be incorporated with such Act, and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

10 Vict. c. 17.

Act may be incorporated in other Acts.

6. [*Construction of waterworks to be subject to the provisions of this Act and the Lands Clauses Consolidation Acts, 1845.*]

Construction of waterworks.

7. [*Errors and omissions in plans, &c. may be corrected by justices, &c., who shall certify the same. Certificate, &c. to be deposited.*]

8. [*Works not to be proceeded with until plans of all alterations authorised by Parliament have been deposited.*]

9. [*Clerks of the peace, &c. to receive plans of alterations, &c., and allow inspection.*]

10. [*Copies of plans and alterations, &c. to be evidence.*]

11. [*Not to deviate beyond limits defined upon plans, &c.*]

12. [*Undertakers, subject to provisions of this and the special Act, may execute the works herein named. Undertakers to make compensation for damages.*]

13. [*Penalty for obstructing construction of works.*]

14. [*Penalty for illegally diverting water.*]

15. [*Reservation of existing rights.*]

16. [*Differences as to the construction of accommodation works to be settled by justices.*]

Accommodation works.

17. [*If undertakers fail to execute such works, persons aggrieved may perform the same, and charge the expense to the undertakers.*]

18. [*Undertakers not entitled to mines unless previously purchased.*]

Mines.

19. [*Map and plan of underground works of undertakers to be made.*]

20. [*Copies of such map or plan to be deposited with clerk of the peace, &c.*]

21. [*Clerks of the peace, &c. to receive and keep copies of the map, &c. and allow inspection.*]

22. [*Mines lying near the works not to be worked until owners give notice to undertakers of their intentions. Upon receipt of notice undertakers may take the mines, making compensation to the owners.*]

23. [*If company unwilling to treat for payment of compensation, owner may work the mines. Owners to make good damage occasioned by working the mines in an unusual manner.*]

24. [*Mining communications.*]

25. [*Company to make compensation to owner, lessee, or occupier of mines for expenses incurred by reason of mines being worked. Disputes to be settled by arbitration.*]

26. [*Power to company to enter and inspect the working of mines, after giving notice of the same.*]

27. [*Nothing to prevent undertakers from being liable to actions for injury done to mines.*]

And with respect to the breaking up of streets for the purpose of laying pipes, be it enacted as follows (b):

Laying of pipes.

(b) **Breaking up streets. Laying pipes.**—These provisions (secs. 28—34) correspond with secs. 6—12 of the Gasworks Clauses Act, 1847, *ante*, tit. "Gas." See cases cited thereunder.

For further provisions regulating the laying of pipes, the breaking up and reinstatement of streets, and the notice to and superintendence of the local authorities, see the Metrop. Man. Act, 1855, secs. 109 to 155; the Metrop. Man. Amend. Act, 1862, sec. 82; and the Metropolitan Paving Act, 1817, secs. 15—23, *ante*, vol. i. As to laying pipes in any street where there is a subway belonging to the county council constructed for the reception of water or other pipes, see the Metropolitan Subways Act, 1868, and the London Coun. Counc. (Subways) Act, 1893, *ante*, tit. "Subways." As to the power of tramway companies to alter the position of water mains or pipes, see the Tramways Act, 1870, sec. 30, *ante*, tit. "Tramways."





10 Vict. c. 17.

Power to break up streets, &c. under superintendence, and to open drains.

Not to enter on private land without consent.

Notice to be served on persons having control, &c. before breaking up streets or opening drains.

Streets or drains not to be broken up except under superintendence of persons having control of the same.

If persons having the control, &c. fail to superintend, undertakers may perform the work without them.

28. The undertakers, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges <sup>(c)</sup> within the limits of the special Act; and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service pipes, and other works <sup>(d)</sup> and engines, and from time to time repair, alter, or remove the same, and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges, and do all other acts which the undertakers shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits, doing as little damage as can be in the execution of the powers hereby or by the special Act granted, and making compensation for any damage which may be done in the execution of such powers.

29. Provided always, that nothing herein contained shall authorise or empower the undertakers to lay down or place any pipe, conduit, service pipe, or other work in any land not dedicated to public use without the consent of the owners and occupiers thereof, except that the undertakers at any time may enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this or the special Act, or any other Act of Parliament, and may repair or alter any pipe so laid down.

30. Before the undertakers open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

31. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan <sup>(e)</sup> as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by two justices; and such justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain: Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the intention of the undertakers as aforesaid, or shall not propose

<sup>(c)</sup> **Soil and pavement of bridges.**—This section does not empower the undertakers to pierce the masonry or girders of a bridge carrying a road across a railway, or to suspend their pipes from the girders. *Glasgow (Lord Provost, &c. of) v. Glasgow and South Western Ry. Co.* (1895), A. C. 376; 64 L. J. P. C. 171.

<sup>(d)</sup> **Other works.**—This section enables the undertakers to place such works on the surface of a street as covers or guard boxes to protect stop valves for regulating the supply of water, provided that they do not create a nuisance and are not inconsistent with the substantial reinstatement of the pavement. *East London Waterworks Co. v. St. Matthew, Bethnal Green*, 17 Q. B. D. 475; 55 L. J. Q. B. 571. The undertakers are responsible for the repair of such works, and if, in consequence of their negligence, they are out of repair, the undertakers will be liable for any injuries caused thereby. *Chapman v. Eglde Waterworks Co.* (1894), 2 Q. B. 599; 64 L. J. Q. B. 15. See also *Strute v. Southwark and Vauxhall Water Co.*, 53 J. P. 424, and cases cited in note to sec. 39, *post*.

<sup>(e)</sup> **According to plan.**—The plan required is not merely of the “breaking up” of the road, but also showing the mode in which the underground work is intended to be executed, so as to enable the local authority to judge whether the proposed work ought to be done without modification. If the road authority, after receiving such a plan, do not, in case of disapproval, themselves make some counter proposal, by plan or otherwise, as to the mode of carrying out the work, so as to create a “difference” to be determined by two justices, the company may proceed with the work independently of the road authority. *East Molesey Loc. Bd. v. Lambeth Waterworks Co.* (1892), 3 Ch. 289; 62 L. J. Ch. 82.

any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons, or their officer.

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**32.** When the undertakers open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times whilst any such road or pavement shall be so opened or broken up cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and kept there against, every night during which such road or pavement shall be continued open or broken up, and shall, after replacing and making good the road or pavement which shall have been so broken up, keep the same in good repair for three months thereafter, and such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Streets, &c.  
broken up  
to be rein-  
stated without  
delay.

**33.** If the undertakers open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the undertakers are authorised to perform such works without any superintendence or notice, or if the undertakers make any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of six months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made a sum not exceeding five pounds for every such offence, and an additional sum of five pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

Penalty for  
delay in  
reinstating  
streets, &c.

**34.** If any such delay or omission as aforesaid shall take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the undertakers, and such expenses may be recovered in the same way as damages are recoverable under this and the special Act.

In case of  
delay, other  
parties may  
reinstate and  
recover the  
expenses.

And with respect to the supply of water to be furnished by the undertakers, be it enacted as follows :

*Supply of  
water.*

**35.** (*f*). The undertakers shall provide and keep in the pipes to be laid down by them a supply of pure and wholesome water sufficient for the domestic use of all the inhabitants of the town or district within the limits of the special Act, who, as hereinafter provided, shall be entitled to demand a supply and shall be willing to pay water rate for the same ; and such supply shall be constantly laid on at such a pressure as will make the water reach the top story of the highest houses within the said limits, unless it be provided by the special Act (*g*) that the water to be supplied by the undertakers need not be constantly laid on under pressure ; and the undertakers shall cause pipes to be laid down and water to be brought to every part of the town or district within the limits of the

A constant  
supply of  
water to be  
kept for  
domestic  
purposes at  
high pressure.

(*f*) **Constant supply.**—Sec. 35 is expressly excluded from the special Acts of the New River Co., the East London, the West Middlesex, the Chelsea, and the Kent Waterworks Companies. See note to sec. 1, *ante*.

As to a constant supply in London, see the Metropolis Water Act, 1871, secs. 7 to 16, *post*.

(*g*) **Unless provided by the special Act.**—For cases in which waterworks companies have been held to be exempted by their special Acts from the obligation of keeping their pipes charged at high pressure, see *Purnell v. Wolverhampton New Waterworks Co.*, 10 C. B. (N. S.) 576 ; 4 L. T. (N. S.) 513 ; *Finchley Loc. Bd. v. Barnet Dist. Gas and Water Co.*, 9 T. L. R. 265.

10 Vict. c. 17. special Act whereunto they shall be required by so many owners or occupiers of houses in that part of the town or district as that the aggregate amount of water rate payable by them annually at the rates specified in the special Act shall be not less than one tenth part of the expense of providing and laying down such pipes; provided that no such requisition shall be binding on the undertakers unless such owners or occupiers shall severally execute an agreement binding themselves to take such supply of water for three successive years at least.

Penalty for neglect to lay pipes for supply of water for domestic use.

**36.** If for twenty-eight days after demand in writing made to the undertakers, and tender made of an agreement, signed by such number of owners or occupiers as aforesaid, to take and pay for a supply of water for three years or more, the undertakers shall refuse or neglect to lay down pipes in the manner hereinbefore directed, and to provide such supply of water as aforesaid or as provided by the special Act, they shall forfeit to each of such owners and occupiers the amount of rate which he would be liable to pay under such agreement, and also the further sum of forty shillings for every day during which they shall refuse or neglect to lay down such pipes, or to provide such supply of water: Provided always, that the undertakers shall not be liable to any penalty for not supplying water if the want of such supply shall arise from frost, unusual drought, or other unavoidable cause or accident (*h*).

Proviso.

Supply of water to be kept for cleansing sewers, drains, &c. and for other public purposes.

**37.** In all the pipes to which any fire-plug shall be fixed the undertakers shall provide and keep constantly laid on, unless prevented by frost, unusual drought, or other unavoidable accident, or during necessary repairs, a sufficient supply of water for the following purposes; (that is to say), for cleansing the sewers and drains (*i*), for cleansing and watering the streets, and for supplying any public pumps, baths, or wash-houses that may be established for the free use of the inhabitants, or paid for out of any poor rates or borough rates levied within the limits of the special Act (*k*); and such supply shall be provided at such rates, in such quantities, and upon such terms and conditions as may be agreed upon (*l*) by the town commissioners and the undertakers, or, in case of disagreement, as shall be settled in England . . . by two justices, . . . until . . . an inspector shall have been appointed, and after the appointment of such inspector, by the inspector so appointed.

Fire-plugs.

Undertakers to affix public fire-plugs in mains.

**38.** The undertakers, at the request of the town commissioners (*m*), shall fix proper fire-plugs (*n*) in the main and other pipes belonging to them, at such convenient distances, not being more than the prescribed distance, or, if no distance be prescribed, not more than one hundred yards from each other, and at such places as may be most proper and convenient for the supply of water for extinguishing any fire which may break out within the limits of the special Act; and in case of any difference of opinion as to the proper position or number of such fire-plugs, it shall be settled by such inspector as aforesaid, when appointed, and in the meantime by two justices in England . . .

Undertakers to repair fire-plugs and

**39.** The undertakers shall from time to time renew and keep in effective order every such fire-plug (*o*); and as soon as any such fire-plug is completed they shall deposit a key thereof at each place within the limits of the special Act

(*h*) **Penalty for neglect to supply water.**—A similar provision is contained in secs. 61 and 62 of the East London Waterworks Act, 1853; and in sec. 65 of the Chelsea Waterworks Act, 1852. The above section is expressly excluded from the Acts of those companies, and of the Kent Waterworks Co.

(*i*) **Water for cleansing sewers.**—There is nothing in this Act which compels a local authority to take water to cleanse sewers from a water company. *West Surrey Water Co. v. Chertsey Union* (1894), 3 Ch. 513; 63 L. J. Ch. 806.

(*k*) **Rates levied within limits of special Act.**—See *Oldham Union* (*Guardians of*) *v. Oldham* (*Mayor, &c., of*), 23 L. T. (N. S.) 245.

(*l*) **Terms agreed upon.**—See *Met. Bd. Wks. v. New River Co.*, *post*, p. 1339.

(*m*) **Town commissioners**, i.e., the London County Council throughout London. See 3, *ante*, and the Metropolitan Fire Brigade Act, 1865, secs. 2 and 32, *ante*, tit. "*Fire Brigade*."

(*n*) **Provision of fire-plugs.**—See further the Metropolis Water Act, 1871, sec. 34 and note thereto, *post*, and the Metropolitan Fire Brigade Act, 1865, sec. 32, *ante*, tit. "*Fire Brigade*."

(*o*) **Effective order of fire-plugs.**—A water company was held not to be liable for damage caused by the bursting of a fire-plug in consequence of a frost of unusual severity, the effects of which the company could not foresee. *Blyth v. Birmingham Waterworks Co.*, 11 Exch. 781; 25 L. J. Ex. 212. But where a fire-plug burst during



where any public fire engine is kept, and in such other places as may be appointed by the town commissioners (*p*), and shall put up a public notice in some conspicuous place in each street in which such fire-plug is situated showing its situation, which notice the undertakers may put up on any house or building in such street.

40. The cost of such fire-plugs, and the expense of fixing, placing, and maintaining the same in repair (*q*), and of providing such keys as aforesaid, shall be defrayed by the town commissioners (*p*).

41. The undertakers shall, at the request and expense of the owner or occupier of any work or manufactory situated in any street in which there shall be a pipe of the undertakers, place and maintain in effective order a fire-plug (to be used only for extinguishing fires) as near as conveniently may be to such work or manufactory.

42. The undertakers shall at all times keep charged with water, under such pressure as aforesaid (*r*), all their pipes to which fire-plugs shall be fixed, unless prevented by frost, unusual drought, or other unavoidable cause or accident (*s*), or during necessary repairs, and shall allow all persons at all times to take and use such water for extinguishing fire, without making compensation for the same.

43. If, except when prevented as aforesaid, the undertakers neglect or refuse to fix, maintain, or repair such fire-plugs, or to furnish to the town commissioners a sufficient supply of water for the public purposes aforesaid, upon such terms as shall have been agreed on or settled as aforesaid, or if, except as aforesaid, they neglect to keep their pipes charged under such pressure as aforesaid, or neglect or refuse to furnish to any owner or occupier entitled under this or

10 Vict. c. 17.

deposit keys thereof at engine houses.

Expense of fire-plugs, &c. how to be borne.

Fire-plugs to be placed near manufactories at request, &c. of owners.

Pipes to be kept charged, and water taken to extinguish fires without charge.

Penalty for refusal to fix, &c. fire-plugs, or occasional failure of supply of water.

an ordinary frost, and there was evidence of negligence, the court refused to set aside the verdict of the jury awarding damages against the water company. *Steggles v. New River Co.*, 13 W. R. 413. Where a horse was lamed by stepping on the broken cap of a fire-plug it was held, under similar provisions in a local Act, that the waterworks company, and not the local authority, was liable. *Bayley v. Wolverhampton Waterworks Co.*, 6 H. & N. 241; 30 L. J. Ex. 57. Where a fire-plug had been fixed level with the pavement, but in consequence of the ordinary wearing away of the highway the fire-plug projected half-an-inch above the level of the pavement, and a person fell over the fire-plug and was hurt, it was held that the waterworks company was not liable. *Moore v. Lambeth Waterworks Co.*, 17 Q. B. D. 462; 55 L. J. Q. B. 304. No action in such a case lies either against the waterworks company or the road authority. *Thompson v. Brighton (Mayor, &c., of)* (1894), 1 Q. B. 333; 63 L. J. Q. B. 181. But where a fire-plug was made with a hole in the top, in which a passer-by caught his foot and was injured, and there was evidence that such fire-plugs were unsafe, the waterworks company was held to be liable. *Stockings v. Lambeth Waterworks Co.*, 7 T. L. R. 460. See also *Strute v. Southwark and Vauxhall Water Co.* and *Chapman v. Fylde Waterworks Co.*, *ante*, p. 1302.

(*p*) **Town commissioners.**—See note (*m*) on page 1304.

(*q*) **Cost of maintaining fire-plugs.**—This section imposes no obligation on the local authority to bear the expense of maintaining fire-plugs in repair, unless fixed by them or by some water company or person at their request. Such request cannot be implied from the fact that the local authority have used the fire-plugs. *Grand Junction Waterworks Co. v. Brentford Loc. Bd.* (1894), 2 Q. B. 735; 63 L. J. Q. B. 717.

(*r*) **Pressure aforesaid.**—See sec. 35 and note thereto, *ante*.

(*s*) **Unusual drought or unavoidable cause.**—In an action against a waterworks company for making default in supplying water, whereby the plaintiff was unable to extinguish a fire, which destroyed his premises, the company pleaded that the main or service pipe supplying the plaintiff's premises had a fire-plug properly fixed in it, but that the fire-plug was opened for the purpose of extinguishing another fire, which was the cause of the default. The company also pleaded that they were prevented from affording the supply from "unavoidable cause or accident." *Held*, upon demurrer, that the first plea was good, but that the latter was bad, as being too general. *Campbell v. East London Waterworks Co.*, 26 L. T. (N. S.) 475.

Where, on a summons for unlawfully neglecting or refusing to furnish a sufficient supply of water, the magistrate found that the insufficient supply was due to "unusual drought or other unavoidable cause," it was held that the waterworks company came within the exemption in this section, and within a similar exemption contained in the East London Waterworks Act, 1853 (16 & 17 Vict. ch. clxvi.), sec. 62. *Industrial Dwellings Co. v. East London Waterworks Co.*, 58 J. P. 430. See also *Jackson v. Farnham Water Co.*, 3 T. L. R. 632.

10 Vict. c. 17. the special Act to receive a supply of water during any part of the time for which the rates for such supply have been paid or tendered, they shall be liable to a penalty of ten pounds, and shall also forfeit to the town commissioners, and to every person having paid or tendered the rate, the sum of forty shillings for every day during which such refusal or neglect shall continue after notice in writing shall have been given to the undertakers of the want of supply (†).

*Pipes to be laid by the undertakers.*

Undertakers to lay down communication pipes on request of occupier and with consent of owners in houses of limited value.

And with respect to the communication pipes to be laid by the undertakers, be it enacted as follows (u) :

44. The undertakers shall, upon the request of the owner of any dwelling-house in any street in which pipes shall have been laid down by them, the annual value of which house shall not exceed ten pounds, or upon request of the occupier, with the consent in writing of the owner or reputed owner of any such house, or of the agent of such owner (x), and upon payment or tender of the proportion of water rate in respect of such house by this or the special Act made payable in advance, lay down communication pipes and other necessary works for the supply of such house with water for domestic or other purposes, and shall keep the same in repair, and thereupon the occupier of such house shall be entitled to have a sufficient supply of water for his domestic purposes from the undertakers; and the undertakers may charge for such pipes and works, in addition to the water rate, such reasonable annual rent as shall be agreed upon, or, in case of dispute, as shall be settled by such inspector as aforesaid, when appointed, and in the meantime as shall in England or Ireland be settled by two justices, and in Scotland by the sheriff: and such rent shall be chargeable on and recoverable from the occupier, or, in his default, from the owner of such house, at the same times and in the same manner as water rates; and such pipes and other works shall not be subject to distress or to the landlord's hypothec for rent, nor to be taken in execution under any process of a court of law or equity, or under any fiat or sequestration in bankruptcy, against such occupier or against such owner, unless he shall have become the proprietor of the said pipes and works under the provisions hereinafter contained.

Penalty on undertakers for refusal to lay communication pipes.

45. If, upon such request and consent, and upon tender or payment of such proportion of rate as aforesaid, the undertakers for seven days neglect or refuse to lay down such communication pipes or other works, they shall be liable to forfeit to the person so making such request the sum of five pounds, and a further sum of forty shillings for every day during which such refusal or neglect shall continue after seven days from the making of such request and tender as aforesaid.

Undertakers to be at liberty to remove pipes, and recover expenses of owners or occupiers.

46. If the occupier for the time being of the house in which any such communication pipes or other works and engines shall have been laid down by the undertakers refuse to pay for a supply of water, or if such house be unoccupied for twelve months, the undertakers may demand from the owner thereof payment of the amount of the principal money invested by them in providing

(†) **Liability for failure to supply water.**—No right of action lies against a waterworks company for not keeping their pipes charged as required by the Act, their only liability being to the penalty imposed by this section. *Atkinson v. Newcastle and Gateshead Waterworks Co.*, 2 Ex. D. 441; 46 L. J. Ex. 775. Nor will the court make an order declaring that an owner or occupier is entitled to a supply. *McColla v. Clacton-on-Sea Gas and Water Co.*, 5 T. L. R. 690. The undertakers are not entitled to withhold a supply of water from an incoming tenant until the arrears due from a preceding tenant are paid; but if they have severed the communication between the main and the premises under sec. 74, *post*, they are not bound to restore it, and are not liable to penalties until the owner or incoming tenant has done so. *Sheffield Waterworks Co. v. Wilkinson*, 4 C. P. D. 410; 48 L. J. M. C. 145. See also *Sheffield Waterworks Co. v. Carter*, *post*, p. 1338.

(u) **Pipes to be laid by undertakers.**—The provisions of this Act with respect to communication pipes to be laid by the undertakers are expressly excluded from the special Acts of the New River Co., the East London, the West Middlesex, the Chelsea, and the Kent Waterworks Companies. See note to sec. 1, *ante*.

(x) **Consent in writing of owner, &c.**—When applying this Act to the East London Waterworks Co., the Southwark and Vauxhall Water Co., or the Chelsea Waterworks Co., this section is to be read as if the words "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" were omitted. East London Waterworks Act, 1894, sec. 2. Southwark and Vauxhall Water Acts, 1891 and 1894, sec. 2. Chelsea Waterworks Act, 1896, sec. 3. See note to sec. 1, *ante*.

and laying down such communication pipes and other works and engines; and if such owner, after ten days' notice given to him by the undertakers, neglect or refuse to pay such principal money, the undertakers may enter the house and remove such pipes and other works; and the balance of such principal money, after deducting the value of such pipes and other works, with all arrear of rent for such pipes and other works, shall, in default of payment, be recovered, with the costs incurred, from the owner or from the occupier for the time being in the same manner as water rates are directed by this or the special Act to be recovered: Provided always, that no greater sum shall be recovered from any such occupier than the amount of rent for the time being owing by him, unless he refuse to discover the amount of rent owing by him; and that every such occupier shall be entitled to deduct from the amount of rent payable by him the sum so recovered from him, or which he shall have paid on demand.

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47. The owner or reputed owner of any house where any such communication pipes or other works shall have been laid down by the undertakers may at any time pay off the amount then due to the undertakers in respect of the costs of providing and laying down such pipes and works, and all rent at that time due in respect thereof, and thereupon such pipes and works shall become the property of such owner, and all further rent in respect thereof shall cease to accrue to the undertakers.

No greater sum to be recovered from occupiers than amount of rent due.

Owner to be at liberty to purchase the pipes.

And with respect to the communication pipes to be laid by the inhabitants, be it enacted as follows:

*Pipes to be laid by the inhabitants.*

48. Any owner or occupier of any dwelling-house or part of a dwelling-house within the limits of the special Act who shall wish to have water from the water-works of the undertakers brought into his premises, and who shall have paid or tendered to the undertakers the portion of water rate in respect of such premises by this or the special Act directed to be paid in advance, may open the ground between the pipes of the undertakers and his premises, having first obtained the consent of the owners and occupiers of such ground, and lay any leaden or other pipes from such premises, to communicate with the pipes of the undertakers, such pipes to be of a strength and material to be approved by the undertakers, or, in case of dispute, to be settled in England or Ireland by two justices, and in Scotland by the sheriff, or in either case by the inspector to be appointed as aforesaid: Provided always, that every such owner or occupier shall, before he begins to lay any such pipe, give to the undertakers fourteen days' notice of his intention to do so.

Power to inhabitants to lay service pipes, giving the undertakers notice of the same.

49. Before any pipe is made to communicate with the pipes of the undertakers, the person intending to lay such pipe shall give two days' notice to the undertakers of the day and hour when such pipe is intended to be made to communicate with the pipes of the undertakers; and every such pipe shall be so made to communicate under the superintendence and according to the directions of the surveyor or other officer appointed for that purpose by the undertakers, unless such surveyor or officer fail to attend at the time mentioned in the said notice; and in case of any dispute as to the manner in which such pipe shall be so made to communicate, it shall in England or Ireland be settled by two justices, and in Scotland by the sheriff, or in either case by the inspector to be appointed as aforesaid.

Communication with the pipes of the undertakers to be made under the superintendence of their surveyor. As to the settling of disputes.

50. The bore of any such pipe as last aforesaid shall not exceed the prescribed limits, and where no limit shall be prescribed it shall not exceed half an inch, except with the consent of the undertakers.

Bore of service pipes.

51. Any person who shall have laid down any pipe or other works, or who shall have become the proprietor thereof, may remove the same, after having first given six days' notice in writing to the undertakers of his intention so to do, and of the time of such proposed removal, and every such person shall make compensation to the undertakers for any injury or damage to their pipes or works which may be caused by such removal; and every person who shall remove any such pipe or other works without giving such notice as aforesaid shall forfeit to the undertakers a sum not exceeding five pounds, over and above the damage which he may be found liable to pay in any action at law, at the suit of the undertakers, for the damage done to their pipes or works.

Service pipes may be removed after giving notice of the same.

Penalty on removing pipes without notice.

52. Any such owner or occupier may open or break up so much of the pavement of any street as shall be between the pipe of the undertakers and his house,

Power to inhabitants



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to break up pavements, giving notice of the same.

Owners or occupiers entitled to demand a supply of water for domestic purposes.

*Protection of water.*

Persons using the water to provide cisterns and cocks.

Penalty for neglect.

Penalty for suffering cistern, &c. to be out of repair.

Undertakers may repair cisterns, &c. and recover the expenses.

Power to surveyor employed by

building, or premises, and any sewer or drain therein, for any such purpose as aforesaid, doing as little damage as may be, and making compensation for any damage done in the execution of any such work: Provided always, that every such owner or occupier desiring to break up the pavement of any street, or any sewer or drain therein, shall be subject to the same necessity of giving previous notice, and shall be subject to the same control, restriction, and obligations in and during the time of breaking up the same, and also reinstating the same (y), and to the same penalties for any delay in regard thereto, as the undertakers are subject to by virtue of this or the special Act.

**53.** Every owner and occupier of any dwelling-house, or part of a dwelling-house within the limits of the special Act shall, when he has laid such communication pipes as aforesaid, and paid or tendered the water rate payable in respect thereof, according to the provisions of this and the special Act, be entitled to demand and receive from the undertakers a sufficient supply of water for his domestic purposes (z).

And with respect to waste or misuse of the water supplied by the undertakers, be it enacted as follows (a):

**54.** If by the special Act it be provided that the water to be supplied by the undertakers need not be constantly laid on under pressure, every person supplied with water shall, when required by the undertakers, provide a proper cistern to hold the water with which he shall be so supplied with a ball and stop cock in the pipe bringing the water from the works of the undertakers to such cistern (b), and shall keep such cistern, ball, and stop cock in good repair, so as effectually to prevent the water from running to waste (a); and in case any such person shall, when required by the undertakers, neglect to provide such cistern, ball, or stop cock, or to keep the same in good repair, the undertakers may cut off the pipe or turn off the water from the premises (c) of such person until such cistern and ball and stop cock shall be provided or repaired, as the case may require.

**55** (d). Every person supplied with water by the undertakers who shall suffer any such cistern, pipe, ball, or stop cock to be out of repair, so that the water supplied to him by the undertakers shall be wasted, shall forfeit to the undertakers for every such offence a sum not exceeding five pounds.

**56.** The undertakers may repair any such cistern, pipe, ball, or stop cock, so as to prevent any such waste of water, and the expenses of such repair shall be repaid to them by the person so allowing the same to be out of repair, and may be received (e) as damages.

**57.** The surveyor, or any other person acting under the authority of the undertakers, may, between the hours of nine of the clock in the forenoon and four of the clock in the afternoon, enter into any house or premises supplied

(y) **Reinstatement of pavement.**—Where an owner opened a street to lay a service pipe, and carelessly filled up the hole, and the connection with the main was at the same time effected by the waterworks company, it was held that the owner, and not the company, was responsible for reinstating the street, and that the word "pavement" in the above section is not confined to foot pavement. *Glover v. East London Waterworks Co.*, 16 W. R. 310; 17 L. T. (N.S.) 475.

(z) **Domestic purposes.**—See the Waterworks Clauses Act, 1863, sec. 12, and the West Middlesex Waterworks Act, 1852, sec. 42, and notes thereto, *post*.

(a) **Waste or misuse of water.**—See also the Waterworks Clauses Act, 1863, secs. 16 to 20; the Metropolis Water Act, 1852, secs. 23 to 26; the Metropolis Water Act, 1871, secs. 17 to 25; and the West Middlesex Waterworks Act, 1852, sec. 35, *post*.

(b) **Provision of stop cocks.**—Where a local Act (21 & 22 Vict. ch. x.) required consumers to "provide proper ball or stop cocks or other necessary apparatus for regulating the supply," it was held that the water company could not require the consumer to attach a stop valve to the service pipe under the pavement in the street. *Ward v. Fulkestone Waterworks Co.*, 24 Q. B. D. 334; 59 L. J. M. C. 65.

(c) **Turn off water.**—Within twenty-four hours after cutting off the water the water company is required by sec. 49 of the Public Health (London) Act, 1891, *ante*, vol. i., to give notice thereof in writing to the sanitary authority.

(d) **Sections 55 and 59** are repealed by 38 & 39 Vict. c. 66 (Statute Law Revision) so far as they relate to special Acts to which the Waterworks Clauses Act, 1863, applies. They are replaced by secs. 17 and 20 of the latter Act, *post*. See notes thereto.

(e) **Received.**—*Sic* in Parliament Roll.

with water by virtue of this or the special Act in order to examine if there be any waste or misuse of such water (*f*); and if such surveyor or other person at any such time be refused admittance into such dwelling-house or premises for the purpose aforesaid, or be prevented from making such examination as aforesaid, the undertakers may turn off the water supplied by them from such house or other premises (*g*).

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undertakers  
to enter houses  
to inspect, &c.

58. Every owner or occupier of any tenement supplied with water under this or the special Act who shall supply to any other person or wilfully permit him to take any such water from any cistern or pipe in such tenement, unless for the purpose of extinguishing any fire, or unless he be a person supplied with water by the undertakers, and the pipes belonging to him be, without his default, out of repair, shall forfeit to the undertakers for every such offence a sum not exceeding five pounds.

Penalty for  
allowing  
persons to  
use the  
undertakers'  
water.

59 (*h*). Every person who, not having agreed to be supplied with water by the undertakers, shall take any water from any reservoir, watercourse, or conduit belonging to the undertakers, or any pipe leading to any such reservoir, watercourse, or conduit, or from any cistern or other like place containing water belonging to the undertakers, other than such as may have been provided for the gratuitous use of the public, shall forfeit to the undertakers for every such offence a sum not exceeding ten pounds.

Penalty for  
taking the  
undertakers'  
water without  
agreement.

60. Every person who shall wilfully or carelessly break, injure, or open any lock, cock, valve, pipe, work, or engine belonging to the undertakers, or shall flush or draw off the water from the reservoirs or other works of the undertakers, or shall do any other wilful act whereby such water shall be wasted, shall forfeit to the undertakers for every such offence a sum not exceeding five pounds.

Penalty for  
destroying  
valves, &c.

And with respect to the provisions for guarding against fouling the water of the undertakers, be it enacted as follows (*i*):

*Fouling the  
water.*

61. Every person who shall commit any of the offences next hereinafter enumerated shall for every such offence forfeit to the undertakers a sum not exceeding five pounds; that is to say,

Penalties for  
causing the  
water of the  
undertakers'  
to be fouled,  
&c.

Every person who shall bathe in any stream, reservoir, aqueduct, or other waterworks belonging to the undertakers, or wash, throw, or cause to enter therein any dog or other animal:

Every person who shall throw any rubbish, dirt, filth, or other noisome thing into any such stream, reservoir, aqueduct, or other waterworks as aforesaid, or wash or cleanse therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing:

Every person who shall cause the water of any sink, sewer, or drain, steam engine, boiler, or other filthy water belonging to him or under his control, to run or be brought into any stream, reservoir, aqueduct, or other waterworks belonging to the undertakers, or shall do any other act whereby the water of the undertakers shall be fouled:

And every such person shall forfeit a further sum of twenty shillings for each day (if more than one) that such last-mentioned offence shall be continued.

62. Every person making or supplying gas within the limits of the special Act who shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, or waterworks belonging to the undertakers, or into any drain communicating therewith, any washing or other substance which shall be produced in making or supplying gas, or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, or waterworks shall be fouled, shall forfeit to the undertakers for every such offence the sum of two hundred pounds; and such penalty shall be recovered, with full costs of suit, in any of the superior courts;

Penalty for  
permitting  
substances  
produced in  
making gas to  
flow into the  
undertakers'  
works.

(*f*) **Power to enter and inspect.**—See also the West Middlesex Waterworks Act, 1852, sec. 35 and notes thereto, *post*.

(*g*) **Turn off water.**—See note (*c*) on page 1308.

(*h*) **Sections 55 and 59.**—See note (*d*) on page 1308.

(*i*) **Fouling water.**—See also the Waterworks Clauses Act, 1863, secs. 16 and 17; and the West Middlesex Waterworks Act, 1852, sec. 38, *post*; and the Public Health (London) Act, 1891, sec. 53, *ante*, vol. i.

10 Vict. c. 17. but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within six months after it has ceased (*k*).

Penalty to be sued for within six months.

Daily penalty during the continuance of the offence.

Penalty on gas makers causing water to be fouled.

Power to examine gas pipes to ascertain cause of water being fouled.

The expenses to abide the result of the examination.

How expense to be ascertained.

*Water rates.*

Rates to be payable according to the annual value of the premises.

Where several houses supplied by one pipe, each to pay.

**63.** In addition to the said penalty of two hundred pounds, and whether such penalty have been recovered or not, the person making or supplying gas as aforesaid shall forfeit to the undertakers the sum of twenty pounds, to be recovered in like manner for each day during which such washing or substance shall be brought or shall flow as aforesaid, or during which the Act shall continue by which such water is fouled, after the expiration in either case of twenty-four hours from the time when notice of the offence has been served on such person by the undertakers.

**64.** Whenever the water supplied by the undertakers shall be fouled by the gas of any person making or supplying gas within the limits of the special Act, such person shall forfeit to the undertakers for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

**65.** For the purpose of ascertaining whether the water of the undertakers be fouled by the gas of any person making or supplying gas within the limits of the special Act, the undertakers may dig up the ground and examine the pipes, conduits, and works of the persons making or supplying gas; provided that before proceeding so to dig and examine the undertakers shall give twenty-four hours' notice in writing to the person so making or supplying gas of the time at which such digging and examination is intended to take place, and they shall give the like notice to the persons having the control or management of the pavements or place where such digging shall take place, and they shall be subject to the like obligation of reinstating the road and pavement, and to the same penalties for delay, or any nonfeasance or misfeasance therein, as hereinbefore provided with respect to roads and pavements broken up by them for laying their pipes.

**66.** If upon such examination it appear that such water has been fouled by any gas belonging to such person, the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the person making or supplying gas; but if upon such examination it appear that the water has not been fouled by the gas of such person, then the undertakers shall pay all the expenses of the examination and repair, and also make good to the said person any injury which may be occasioned to his works by such examination.

**67.** The amount of the expenses of every such examination and repair, and any injury done to the undertakers, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the same manner as damages for the ascertaining and recovery whereof no special provision is made are directed to be ascertained and recovered.

And with respect to the payment and recovery of the water rates, be it enacted as follows:

**68.** The water rates (*l*), except as hereinafter and in the special Act mentioned, shall be paid by and be recoverable from the person requiring, receiving, or using the supply of water, and shall be payable according to the annual value (*m*) of the tenement supplied with water, and if any dispute arise as to such value the same shall be determined by two justices.

**69.** When several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe, the several owners or occupiers of such houses or parts of houses shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such

(*k*) **Gas washings.**—See also the Gasworks Clauses Act, 1847, secs. 21 to 23; the Metropolis Gas Act, 1860, secs. 51 and 52, *ante*, tit. "*Gas*;" and the Public Health (London) Act, 1891, sec. 52, *ante*, vol. i.

(*l*) **Water rates.**—For the rates which the London water companies are authorised to charge, see the West Middlesex Waterworks Act, 1852, sec. 39 *et seq.*, and notes thereto, *post*.

(*m*) **Annual value.**—This means, within the unions and parishes to which the Valuation (Metropolis) Act, 1869, extends, the rateable value. Water Rate Definition Act, 1885, *post*.



several houses or parts of houses had been supplied with water from the works of the undertakers by a separate pipe (*n*). 10 Vict. c. 17.

70. The rates shall be paid in advance by equal quarterly payments (*o*) in England or Ireland, at Christmas Day, Lady Day, Midsummer Day, and Michaelmas Day, and in Scotland at Martinmas, Candlemas, Whitsuntide, and Lammas, and the first payment shall be made at the time when the pipe by which the water is supplied is made to communicate with the pipes of the undertakers, or at the time when the agreement to take water from the undertakers is made. Rates to be paid quarterly.

71. The occupier of any dwelling-house or part of a dwelling-house liable to the payment of any water rate, who shall give notice of his intention to discontinue the use of the water supplied by the undertakers, or who shall remove from his dwelling between any two quarterly days of payment, shall pay the water rate in respect of such dwelling-house or part of a dwelling-house for the quarter ending on the quarterly day of payment next after his quitting the same or giving such notice. Parties giving notice to discontinue use of water, or removing, to pay to the next quarter day.

72. The owners of all dwelling-houses or parts of dwelling-houses occupied as separate tenements, the annual value of which houses or tenements shall not exceed the sum of ten pounds (*p*), shall be liable to the payment of the rates instead of the occupiers thereof; and the powers and provisions herein or in the special Act contained for the recovery of rates from occupiers shall be construed to apply to the owners of such houses and tenements; and the person receiving the rents of any such house or tenement as aforesaid from the occupier thereof, on his own account, or as agent or receiver for any person interested therein, shall be deemed the owner of such house or tenement. Owners of houses not exceeding 10*l*. rent to be liable to water rates.

73. Provided always, that when any owner shall pay any such rate in respect of any such dwelling-house or part of a dwelling-house which shall be in the occupation of any tenant under any lease or agreement made prior to the passing of the special Act, such tenant shall repay to the owner all sums which shall be so by him paid during the continuance of such lease, unless it have been agreed that the owner shall pay the water rates (*q*) in respect of such dwelling-house or part of a dwelling-house; and every such sum of money payable by the tenant to the owner, under the provision hereinbefore contained, may be recovered, if the same be not paid upon demand, as arrears of rent could be recovered from the occupier by the said owner. Tenants under existing leases to repay the owner.

74. If any person supplied with water by the undertakers, or liable as herein or in the special Act provided to pay the water rate, neglect to pay such water rate at any of the said times of payment thereof, the undertakers may stop the water from flowing into the premises in respect of which such rate is payable, by cutting off the pipe to such premises (*r*), or by such means as the undertakers Rates how to be recovered.

(*n*) **One common pipe.**—The East London Waterworks Act, 1853, sec. 77, and the Southwark and Vauxhall Water Act, 1884, sec. 22, provide, as to those companies respectively, that “the company shall not be bound to supply more than one dwelling-house or other building by means of any one communication pipe.”

(*o*) **Rates payable quarterly in advance.**—Where a house is unoccupied at the beginning of a quarter, and becomes occupied in the course of the quarter, the water company is only entitled to demand so much of the quarter's rate as is proportional to the period during which the house is occupied, even though whilst the house was so unoccupied the company had no notice of the fact, and consequently continued the supply of water. *East London Waterworks Co. v. Foulkes* (1894), 1 Q. B. 819; 58 J. P. 384. See also *British Empire Mutual Life Assurance Co. v. Southwark and Vauxhall Water Co.*, *post*, p. 1340.

(*p*) **Houses not exceeding £10 rent.**—In the case of some of the London waterworks companies the owner's liability is extended to houses or parts of houses occupied as separate tenements “not exceeding the annual value of twenty pounds.” See the West Middlesex Waterworks Act, 1852, sec. 45, and note thereto, *post*.

(*q*) **Agreement by owner to pay water rate.**—Under a covenant by the lessor in a lease to pay “all rates, . . . water rate, . . . and other outgoings now or hereafter to be imposed or assessed upon the said premises, or on the lessor or lessees thereof,” the lessor is not bound to pay for water supplied by the water company to the lessees for trade purposes. *Floyd v. Lyons* (1897), 1 Ch. 633; 66 L. J. Ch. 350.

(*r*) **Cutting off water.**—Where the occupier and not the owner is liable to the payment of the water rate the water company is restrained from cutting off the water for non-payment of the water rate by sec. 4 of the Water Companies (Regulation of Powers)

- 10 Vict. c. 17. shall think fit, and may recover the rate due from such person, if less than twenty pounds, with the expenses of cutting off the water, and costs of recovering the rate, in the same manner as any damages for the recovery of which no special provision is made are recoverable by this or the special Act (s); or if the rate so due amount to twenty pounds or upwards, the undertakers may recover the same, with the expenses of cutting off the water, by action in any court of competent jurisdiction (t).

*Profits of the undertakers.*

Profits of the company to be limited.

And with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit, be it enacted as follows :

75. The profits of the undertaking to be divided among the undertakers in any year shall not exceed the prescribed rate, or where no rate is prescribed they shall not exceed the rate of ten pounds in the hundred by the year on the paid-up capital in the undertaking, which in such case shall be deemed the prescribed rate, unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said yearly rate.

76. [*If profits exceed the amount limited, excess to be invested and form a reserved fund.*]

77. [*Reserved fund not to be resorted to unless to meet an extraordinary claim.*]

78. [*When fund amounts to prescribed sum interest to be applied to purposes of the undertaking.*]

79. [*If profits are less than the prescribed rate a sum may be taken from reserved fund to supply deficiency.*]

If profits are more than the amount prescribed a rateable reduction to be made in the price of water.

80. In England . . . the court of quarter sessions . . . may, on the petition of any two water-rate payers within the limits of the special Act, appoint some accountant or other competent person, not being a proprietor of any waterworks, to examine and ascertain, at the expense of the undertakers, the actual state and condition of the concerns of the undertakers, and make report thereof to the said court at the then present or some following sessions . . . (the amount of such expense to be determined by the said court . . .), and the said court . . . may examine any witnesses upon oath touching the truth of the said accounts and the matters therein referred to; and if it thereupon appear to the said court . . . that the profits of the undertakers for the preceding year have exceeded the prescribed rate, the undertakers shall, in case the whole of the said reserved fund has been and then remains invested as aforesaid, and in case dividends to the amount hereinbefore limited have been paid, make such a rateable reduction in the rates for water (u) to be furnished by them as in the judgment of the said court . . . shall be proper, but so as such rates, when reduced, shall insure to the undertakers, regard being had to the amount of profit before received, a profit as near as may be to the prescribed rate.

Act, 1887, *post*. Within twenty-four hours after cutting off the water the water company is required by sec. 49 of the Public Health (London) Act, 1891, *ante*, vol. i., to give notice thereof in writing to the sanitary authority.

(s) **Recovery of water rates.**—See sec. 85, and note thereto, *post*.

The West Middlesex Waterworks Co.'s Act, 1806, sec. 58, the Kent Waterworks Co.'s Act, 1809, sec. 52, and the Grand Junction Waterworks Co.'s Act, 1811, sec. 36, provide, as to those companies, that where any water rate is in arrear it "shall and may be recovered" by the company "by distress and sale of the goods and chattels of the person or persons liable to pay the same in the same manner as rents reserved on common demises may by law be recovered." This manner of recovering the rates is expressly reserved to the West Middlesex Waterworks Co. by sec. 48 of their special Act of 1852, *post*. *Richards v. West Middlesex Waterworks Co.*, 15 Q. B. D. 660; 54 L. J. Q. B. 551.

The Chelsea Waterworks Act, 1852, sec. 71, enacts that "all water rates and rents and all damages, costs, and expenses by this Act or any Act incorporated herewith directed to be paid may be levied by distress, although the amount thereof may not be disputed, and any justice of the peace, on application, shall issue his warrant accordingly." Sec. 72 provides that the justice may include the costs of the proceedings for the recovery of such rates in the warrant of distress. The Kent Waterworks Act, 1864, secs. 32 and 33, provides a similar method for the recovery of "undisputed water rents."

(t) **Recovery of rates.**—See also sec. 21 of the Waterworks Clauses Act, 1863, *post*.

(u) **Reduction in price of water.**—See *Mason v. Ashton Gas Co.* and *Reg. v. Henley (Recorder of)*, *ante*, p. 904.

81. [Court may order petitioner to pay the costs of groundless petition.]

82. [Penalty on undertakers refusing to produce books, vouchers, &c.]

83. [Annual account to be made up by undertakers, and sent to the clerk of the peace, and to be open to inspection on payment of one shilling.]

84. [Rep. by 57 & 58 Vict. c. 56. Statute Law Revision.]

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices or to the sheriff, be it enacted as follows:

85. If the waterworks be in England . . . the clauses of the Railways Clauses Consolidation Act, 1845, with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special Act(x), . . . and such clauses shall apply to the waterworks and to the undertakers respectively, and shall be construed as if the word "undertakers" had been inserted therein instead of the word "company."

86. [Rep. by 38 & 39 Vict. c. 66. Statute Law Revision.]

87. All things herein or in the special Act, or any Act incorporated therewith, authorised or required to be done by two justices, may and shall be done, in England . . . by any one magistrate having by law authority to act alone for any purpose with the powers of two or more justices(y) . . .

88. Every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any byelaw in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by the Metropolitan Police Courts Act, 1839(z), and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned Act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses, as they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned Act.

89. Every person who upon any examination upon oath under the provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

And with respect to access to the special Act, be it enacted as follows:

(x) **Railways Clauses Consolidation Act, 1845.**—The provisions of this Act here incorporated are contained in secs. 140—145, 148—150, 152—154, and 156—158. They are identical in terms with secs. 142—147, 150—152, 154—156, and 158—160 respectively of the Companies Clauses Consolidation Act, 1845, *ante*, tit., "*Baths and Washhouses*," except that the words "or any Act incorporated therewith" in secs. 144—146 and 154—156 of the Companies Clauses Act are omitted from the corresponding sections of the Railways Clauses Act.

Summary proceedings under this section and sec. 140 of the Railways Clauses Act, 1845, for the recovery of water charges, must be commenced within six months after the sum becomes due. *East London Waterworks Co. v. Charles* (1894), 2 Q. B. 730; 63 L. J. M. C. 209. It is not a condition precedent to a summons for arrears of water rate that a demand should have been made for the amount. *East London Waterworks Co. v. Kyffin* (1895), 1 Q. B. 55; 64 L. J. M. C. 32. See also *Richards v. West Middlesex Waterworks Co.*, *supra*, p. 1312.

(y) **One magistrate.**—See the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), sec. 33, conferring on any one metropolitan magistrate the powers conferred by that Act on two justices.

(z) **Metropolitan Police Courts Act, 1839.**—See note to sec. 26 of the Sale of Food and Drugs Act, 1875, *ante*, tit. "*Food and Drugs*."

10 Vict. c. 17.

*Recovery of damages and penalties.*

Railways Clauses Consolidation Act, 1845, as to damages, &c., to be incorporated with this and the special Act.

All things required to be done by two justices may, in certain cases, be done by one.

Penalties, &c. imposed in respect of offences committed within the metropolitan police district, to be paid to the receiver, and applied under 2 & 3 Vict. c. 71.

Persons giving false evidence liable to penalties of perjury.

*Access to special Act.*



10 Vict. c. 17.

Copies of special Act to be kept by undertakers in their office, and deposited with the clerks of the peace, &c., and be open to inspection.

7 W. 4 &amp;

1 Vict. c. 83.

Penalty on undertakers failing to keep or deposit such copies.

Saving as to 57 Geo. 3., ch. xxix. &c.

Undertakers not exempt from provisions of any future general Act.

90. The undertakers shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to Her Majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace in England . . . of the county in which the undertaking is situated, a copy of such special Act, so printed as aforesaid; and the said clerk of the peace . . . shall receive, and they and the undertakers respectively shall keep, the said copies of the special Act, and shall allow all persons interested therein to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by the Parliamentary Documents Deposit Act, 1837 (*a*).

91. If the undertakers fail to keep or deposit any of the said copies of the special Act, as hereinbefore mentioned, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

92. Nothing in this Act contained shall be deemed to exempt the undertakers from the provisions of an Act passed in the fifty-seventh year of the reign of His late Majesty King George the Third, intituled "An Act for Better Paving, Improving, and Regulating the Streets of the Metropolis, and Removing and Preventing Nuisances and Obstructions therein" (*b*), or from the laws of sewers for the time being in force within ten miles from the Royal Exchange in the City of London.

93. Nothing herein or in the special Act contained shall be deemed to exempt the undertakers from any general Act relating to waterworks, or any Act for improving the sanitary condition of towns and populous districts, which may be passed in the same session of Parliament in which the special Act is passed, or any future session of Parliament.

## WATERWORKS CLAUSES ACT, 1863.

26 & 27 Vict. c. 93. An Act for consolidating in One Act certain Provisions frequently inserted in Acts relating to Waterworks.

[28th July, 1863]

[*Preamble recites the Waterworks Clauses Act, 1847.*]

Short title.

1. This Act may be cited as the Waterworks Clauses Act, 1863; and the Waterworks Clauses Act, 1847, and this Act may be cited together as the Waterworks Clauses Acts, 1847 and 1863.

Application of Act and interpretation of terms.

2. This Act shall apply to any waterworks to which any special Act hereafter passed and incorporating this Act relates (*c*); and every such special Act is hereinafter referred to as "the special Act."

(*a*) **Parliamentary Documents Deposit Act, 1837.**—As to this Act, see note to sec. 6 of the Tramways Act, 1870, *ante*, tit. "*Tramways.*"

(*b*) **57 Geo. 3, ch. xxix.**, i.e., the Metropolitan Paving Act, 1817, commonly called Michael Angelo Taylor's Act, *ante*, vol. i.

(*c*) **Application of Act to London water companies.**—This Act is incorporated with the *New River Co.'s Act*, 1896 (59 & 60 Vict. ch. ccxxix.); the *East London Waterworks Acts*, 1867 (30 & 31 Vict. ch. cxlviii.), 1886 (49 & 50 Vict. ch. lxxxii.), and 1894 (57 & 58 Vict. ch. clxii.); the *Southwark and Vauxhall Water Acts*, 1884 (47 & 48 Vict. ch. cci.), 1886 (49 & 50 Vict. ch. lxxxv.), 1891 (54 & 55 Vict. ch. cxviii.), and 1894 (57 & 58 Vict. ch. clxiv.); the *Lambeth Waterworks Act*, 1896 (59 & 60 Vict. ch. liv.); the *Chelsea Waterworks Acts*, 1875 (38 & 39 Vict. ch. cviii.) and 1896 (59 & 60 Vict. ch. lxxiii.); the *Grand Junction Waterworks Act*, 1878 (41 & 42 Vict. ch. cxxxiv.); and the *Kent Waterworks Act*, 1864 (27 & 28 Vict. ch. cxlvi.); except that sec. 12. *post*, is expressly excluded from the New River, the East London, and the Lambeth water companies' Acts. These comprise the whole of the London water companies, with the exception of the West Middlesex Waterworks Co., which has not incorporated the present Act with any of its special Acts. For a complete list of the special Acts of the London water companies, see note to the schedule of the London Water Act, 1892, *post*.

Terms used in this Act have the same meanings as the same terms have when used in the Waterworks Clauses Act, 1847. 26 & 27 Vict. c. 93.

The provisions respecting the recovery of penalties contained in the last-mentioned Act shall be incorporated with this Act.

### *Security of Reservoirs.*

And with respect to the security of the reservoirs constructed by the undertakers, be it enacted as follows (*d*):

3. Whenever any person interested complains to two justices that any reservoir constructed by the undertakers is in a dangerous state, such justices shall forthwith make inquiry into the truth of the complaint; or two justices, on their own view, and without complaint by any person, may proceed under the present provisions as if a complaint had been so made to them. Power for justices to inquire as to danger of reservoir.

4. If, on any such inquiry, the justices are satisfied that the complaint is well founded, and that the reservoir is in a dangerous state, and that the danger is so imminent as not to admit of delay in removing the cause of complaint, they shall order such person as they think fit to enter on the property of the undertakers, and to lower the water in the reservoir, and to execute and do all such works and things as the justices think requisite and proper for removing the cause of complaint. Order of justices for immediate repair.

5. If, on any such inquiry, the justices are satisfied that there is good cause of complaint, but are not satisfied that the reservoir is in such an imminently dangerous state as not to admit of delay in removing the cause of complaint, they shall issue their summons to the undertakers to answer the complaint; and upon hearing the parties, the justices may, or upon default of appearance of the undertakers, then in their absence, the justices shall, order the undertakers, within such period as the justices think reasonable and specify in the order, to lower the water in the reservoir, and to execute and do all such works and things as the justices think requisite and proper for removing the cause of complaint. Order of justices on failure of undertakers to repair reservoir.

If the undertakers fail to execute or do within that period any such work or thing, the justices who made the order, or any other two justices, on being satisfied of such failure, may either order such persons as the justices think fit to enter on the property of the undertaker, and to lower the water in the reservoir, and to execute and do all such works and things as the justices think requisite and proper for removing the cause of complaint; or may, if they think fit, by order impose on the undertakers a penalty, not exceeding ten pounds, for every day during which such failure continues after the making of the order imposing the penalty. Order of justices on failure of undertakers to repair.

6. Any order of justices made in any of the cases aforesaid shall be in writing under their hands, and may be in the form set forth in the schedule to this Act, with such variations as circumstances require. Form of order.

7. Any person acting under and in pursuance of any such order shall not be deemed a trespasser; and if any person wilfully obstructs any person lawfully acting in obedience to any such order, or wilfully does, or instigates, or suffers to be done, anything in contravention thereof, he shall for every such offence be liable to a penalty not exceeding fifty pounds. Persons acting under order not trespassers.

8. The justices may order all, or such part as they think fit, of the costs of and incident to the applying for and obtaining of any such order to be paid by the undertakers, and also all, or such part as the justices think fit, of the expenses of the works and things executed and done in pursuance of any such order by any person other than the undertakers, to be paid by the undertakers to such person as the justices appoint. Order for payment of costs and expenses.

If the justices before whom the complaint is made think that there is no sufficient ground for the complaint, they may, if they think fit, order the

(*d*) **Security.**—Where a water main burst and flooded the adjoining premises, it was held that the water company, being authorised by Act of Parliament to lay the main, were not, in the absence of negligence, liable for the damage caused. *Green v. Chelsea Waterworks Co.*, 70 L. T. (N. S.) 547; 10 T. L. R. 259. See also *Dixon v. Metropolitan Bd. Wks.*, cited in note to sec. 135 of the Met. Man. Act, 1855, *ante*, vol. i.

26 & 27 Vict.  
c. 93.

Appeal by  
undertakers.

complainant to pay to the undertakers the whole or any part of their costs of or incident to the complaint.

9. If the undertakers consider themselves aggrieved by any order or determination of justices under the present provisions, they may in like manner and subject to the like conditions as by the Railways Clauses Consolidation Act, 1845 (*e*), are provided in the case of appeals in respect of penalties, appeal to the court of general or quarter sessions for the county or place where the cause of appeal arises; and that court may, on the hearing of the appeal, either affirm or quash the order or determination, or make such other order in the premises as may seem fit, and may make such order as to the costs, both of the original proceedings and of the appeal, as may seem fit; but the order or determination appealed against shall, pending the appeal, continue in force.

Undertakers  
not to be  
responsible for  
consequences  
of order.

10. Notwithstanding anything in the special Act contained, the undertakers shall not be liable to pay any damages, penalties, costs, charges, or expenses for or in respect of, or be answerable or accountable for, any diminution or cessation of the supply of water, or any other breach or non-performance of their or any of their duties, liabilities, or obligations under the special Act, that may be occasioned by or result from the execution of any such order.

11. [*Provisions as to Scotland.*]

#### *Supply of Water.*

And with respect to the supply of water to be furnished by the undertakers, be it enacted as follows:

Supply for  
other than  
domestic  
purposes.

12 (*f*). A supply of water for domestic purposes (*g*) shall not include a supply of water for cattle, or for horses, or for washing carriages where such horses or carriages are kept for sale or hire or by a common carrier, or a supply for any trade, manufacture, or business, or for watering gardens, or for fountains, or for any ornamental purpose.

Want of supply  
for other than  
domestic  
purposes,  
when excused.

13. Where the undertakers are authorised by the special Act to supply water for other than domestic purposes, they shall not be liable, in the absence of express stipulation, under any agreement for the supply of water for other than domestic purposes, to any penalty or damages for not supplying such water, if the want of such supply arises from frost, unusual drought, or other unavoidable cause or accident (*h*).

Power to let  
meters for  
hire.

14. Where the undertakers are authorised by the special Act to supply water by measure, they may let for hire to any consumer of water so supplied any meter or instrument for measuring the quantity of water supplied and consumed, and any pipes and apparatus for the conveyance, reception, or storage of the water (*i*), for such remuneration in money as may be agreed upon between them and the consumer, which shall be recoverable in the same manner as rates due to the undertakers for water; and the meters, instruments, pipes, and apparatus shall not be subject to distress or to the landlord's hypothec for rent of the premises where the same are used, or be attached or taken in execution under any process of any court of law or equity, or under or in pursuance of any adjudication or order in bankruptcy, or other legal proceeding, against or affecting the consumer of the water or the occupier of the premises, or other

(*e*) **Railways Clauses Consolid. Act, 1845.**—See note to sec. 85 of the Waterworks Clauses Act, 1847, *ante*.

(*f*) **Section 12.**—This section is expressly excluded from the New River, the East London, and the Lambeth water companies' special Acts. See note to sec. 2, *ante*.

(*g*) **Domestic purposes.**—See sec. 42 of the West Middlesex Waterworks Act, 1852, and notes thereto, *post*.

(*h*) **Unusual drought, &c.**—See note to sec. 42 of the Waterworks Clauses Act, 1847, *ante*.

(*i*) **Provision of meter.**—No obligation on the part of the consumer to provide a meter can be implied from this section. *Sheffield Waterworks Co. v. Carter*, *post*, p. 1338. But in a subsequent case *Pearson, J.*, held, upon the construction of the various Acts regulating the proceedings of the same waterworks company, that the consumer is bound at his own expense to measure by some sufficient automatic or self-registering meter or other instrument, or in some other equally accurate way, and to record the amount of water taken and used for the purpose of a fixed bath. *Sheffield Waterworks Co. v. Bingham*, 25 Ch. D. 443; 52 L. J. Ch. 624.



the person in whose possession the meters, instruments, pipes, and apparatus may be (*k*). 26 & 27 Vict. c. 93.

15. The officers of the undertakers may enter any house, building, or lands to, through, or into which water is supplied by them by measure, in order to inspect the meters, instruments, pipes, and apparatus for the measuring, conveyance, reception, or storage of water, or for the purpose of ascertaining the quantity of water supplied or consumed, and may from time to time enter any house, building, or lands, for the purpose of removing any meter, instrument, pipe, or apparatus the property of the undertakers; and if any person hinders such officer from entering or making such inspection, or effecting such removal, he shall for every such offence be liable to a penalty not exceeding five pounds; but, except with the consent of a justice or the sheriff, this power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon (*k*).

Power for ascertaining quantity consumed by meter, and for removing meters, &c.

#### *Protection of Water.*

And with respect to the waste or misuse of the water supplied by or belonging to the undertakers, be it enacted as follows (*l*):

16. If any person supplied with water by the undertakers wrongfully does or causes or permits to be done anything in contravention of any of the provisions of the special Act, or wrongfully fails to do anything which, under any of those provisions, ought to be done for the prevention of the waste, misuse, undue consumption, or contamination (*m*) of the water of the undertakers, they may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied by them to him, or for his use, and may cease to supply him with water (*n*), so long as the cause of injury remains or is not remedied.

Power to cut off water in certain cases.

17. If any person supplied with water by the undertakers wilfully or negligently causes or suffers any pipe, valve, cock, cistern, bath, soil-pan, watercloset, or other apparatus or receptacle to be out of repair, or to be so used or contrived as that the water supplied to him by the undertakers is or is likely to be wasted, misused, unduly consumed, or contaminated (*m*), or so as to occasion or allow the return of foul air, or other noisome or impure matter, into any pipe belonging to or connected with the pipes of the undertakers, he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty for waste, &c. of water by non-repair of pipes, &c.

18. If any person—

First, not having from the undertakers a supply of water for other than domestic purposes, uses, for other than domestic purposes, any water supplied to him by the undertakers; or

Penalty for application of water contrary to agreement.

Secondly, having from the undertakers a supply of water for any other than domestic purposes, uses, for any purposes other than those for which he is entitled to use the same, any water supplied to him by the undertakers—

he shall for every such offence be liable to a penalty not exceeding forty shillings, without prejudice to the right of the undertakers to recover from him the value of the water misused.

19. It shall not be lawful for the owner or occupier of any premises supplied with water by the undertakers, or any consumer of the water of the undertakers, or any other person, to affix or cause or permit to be affixed any pipe or apparatus to a pipe belonging to the undertakers, or to a communication or service pipe belonging to or used by such owner, occupier, consumer, or other person, or to make any alterations in any such communication or service pipe, or in any

Penalty for extension or alteration of pipes.

(*k*) **Power to let and remove meters, &c.**—Similar provisions to those contained in secs. 14 and 15, *supra*, are contained in secs. 42—44 of the New River Co.'s Act, 1852, and in the East London Waterworks Act, 1853, secs. 82 and 83.

(*l*) **Waste or misuse of water.**—See also the Waterworks Clauses Act, 1847, secs. 54 to 60, *ante*, and the Metrop. Water Act, 1852, secs. 23—26, the Metrop. Water Act, 1871, sec. 17, and the West Middlesex Waterworks Act, 1852, secs. 35 to 38, *post*.

(*m*) **Contamination of water.**—See also the Waterworks Clauses Act, 1847, secs. 61—67, and notes thereto, *ante*.

(*n*) **Cease supply.**—By the Pub. Hlth. (London) Act, 1891, sec. 49, *ante*, vol. i., the water company is required, within twenty-four hours after cutting off the water, to give notice thereof in writing to the sanitary authority.

26 & 27 Vict. c. 93. apparatus connected therewith, without the consent in every such case of the undertakers; and if any person acts in any respect in contravention of the provisions of the present section, he shall for every such offence be liable to a penalty not exceeding five pounds, without prejudice to the right of the undertakers to recover damages from him in respect of any injury done to their property, and without prejudice to their right to recover from him the value of any water wasted, misused, or unduly consumed.

Penalty for use of water without agreement.

20. If any person, not being supplied with water by the undertakers, wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe belonging to the undertakers, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to the undertakers, or supplied by them for the use of any consumer of the water of the undertakers, he shall for every such offence be liable to a penalty not exceeding five pounds (*o*).

#### *Recovery of Rates.*

And with respect to the recovery of water rates and other money, be it enacted as follows:

Recovery of rates by action.

21. If any person refuses or neglects to pay to the undertakers any rate or sum due to them under the special Act, they may recover the same, with costs, in any court of competent jurisdiction; and their remedy under the present section shall be in addition to their other remedies for the recovery thereof (*p*).

#### SCHEDULE.

Section 6.

#### *Form of Order of Justices.*

To A.B. of

&c.

We the undersigned, two of Her Majesty's justices of the peace acting for the [county] of do hereby order and direct you [and such person and persons as you may require to aid and assist you herein] forthwith to lower the water in the [here describe the reservoir and the extent to which the water is to be lowered], and to do all such works and things as are requisite to repair and make secure the said reservoir [and you shall do as little injury as possible to the property of the], and for acting as you are hereby directed this shall be your sufficient warrant].

Given under our hands this day of one thousand eight hundred and

A.B.  
C.D.

#### WATER RATE DEFINITION ACT, 1885.

48 & 49 Vict. c. 34. An Act to declare and explain the sixty-eighth section of the Waterworks Clauses Act, 1847. [31st July, 1885]

#### *[Preamble recites Waterworks Clauses Act, 1847.]*

Explanation of 10 & 11 Vict. c. 17, s. 68.

1. The words "the annual value (*g*) of the tenement supplied with water" in the sixty-eighth section of the Waterworks Clauses Act, 1847, shall, within the

(*o*) **Wrongfully takes or uses water.**—It was held that a similar provision contained in sec. 59 of the Waterworks Clauses Act, 1847, *ante*, did not include the case of a person improperly taking water from a tap in an unoccupied house; but that it applied only to water taken from reservoirs belonging to the water company, or under their immediate control. *Piercy v. Pope*, 46 J. P. 102; 30 W. R. 60. Where a consumer constructed an apparatus by which water, after being used for domestic purposes, was thrown down a receptacle so as to flush it, it was held that this was not a use of water for a purpose other than that for which it was supplied within the meaning of a local Act. *Evans v. Gornall*, 8 T. L. R. 602. Water supplied by a water company to a consumer, and standing in his pipe, may be the subject of a larceny at common law. *Ferens v. O'Brien*, 11 Q. B. D. 21; 52 L. J. M. C. 70.

(*p*) **Recovery of rates.**—See secs. 74 and 85 of the Waterworks Clauses Act, 1847, *ante*.

(*g*) **Annual value.**—See the West Middlesex Waterworks Act, 1852, sec. 39, and note thereto, *post*.

unions and parishes to which the Valuation of Property (Metropolis) Act, 1869, extends (*r*), mean the rateable value as settled from time to time by the local authority as duly constituted: Provided that where the water rate is chargeable on the annual value of a part only of any hereditament entered in the valuation list, such annual value shall be a fairly apportioned part of the rateable value of the whole tenement, ascertained as aforesaid, the apportionment in case of dispute to be determined in manner provided by the said section.

48 & 49 Vict.  
c. 34.

2. The Waterworks Clauses Act, 1847, and this Act shall, for the purposes of this Act, be construed together as one Act, and the provisions of this Act shall to that extent be held to repeal and supersede such of the provisions of that Act as are inconsistent with this Act.

Construction  
of Act.

3. This Act may be cited for all purposes as the Water Rate Definition Act, 1885.

Short title.

### WATER COMPANIES (REGULATION OF POWERS) ACT, 1887.

50 & 51 Vict. c. 21. An Act to limit the Powers of the Water Companies to cut off the Tenant's Water Supply where the rate is paid by the landlord.

[8th August, 1887]

#### [Preamble.]

1. This Act may be cited as the Water Companies (Regulation of Powers) Act, 1887.

Short title.

2. This Act shall not extend to Scotland or Ireland.

Extent of Act.

3. This Act shall apply to every water company which is a trading company supplying water for profit, and to which any of the provisions of the Waterworks Clauses Act, 1847, have been or shall be made applicable by any special Act or provisional order confirmed by Parliament, and every such special Act and provisional order shall be deemed to be amended by this Act, and shall be construed accordingly.

Application  
of Act.

4. Where the owner and not the occupier is liable by law (*s*) or by agreement with the water company to the payment of the water rate in respect of any dwelling-house or part of a dwelling-house occupied as a separate tenement, no water company shall cut off the water supply for non-payment of the water rate (*t*), but such water rate, without prejudice to the other remedies of the company for enforcing payment thereof from such owner, shall, together with interest thereon at the rate of five pounds per centum per annum, computed from the expiration of one month from the time when the same has been claimed by the company until receipt thereof by the company, be a charge on such dwelling-house (*u*) in priority to all other charges affecting the premises; and (without prejudice to such charge) the amount may be recovered, with the costs incurred, from the owner or from the occupier for the time being in the same manner as water rates may by law be recovered: Provided always, that proceedings shall not be taken against the occupier until notice shall have been given to him or left at his dwelling-house to pay the amount due for water rate out of the rent then due or that may thereafter become due from him, and he

Water not to  
be cut off where  
the water rate  
is payable by  
the owner.

(*r*) **Valuation (Metropolis) Act, 1869.**—See sec. 3 of this Act and note thereto, *ante*, tit. "Rating."

(*s*) **Owner liable by law.**—See the Waterworks Clauses Act, 1847, sec. 72, *ante*, and the West Middlesex Waterworks Act, 1852, *post*.

(*t*) **Cutting off water.**—Where a tenant refused to quit after due notice from the landlord, who had agreed to pay the water rate, it was held that the waterworks company committed no offence within the statute by cutting off the water, at the request of the landlord, without notice to the tenant. *Chelsea Waterworks Co. v. Paulet*, 52 J. P. 724. See also sec. 74 of the Waterworks Clauses Act, 1847, *ante*.

(*u*) **Charge on such dwelling-house.**—The effect of this section is that a purchaser of the freehold of a dwelling-house where the owner is liable to the payment of the water rate is liable to a personal action at the suit of the waterworks company to recover arrears of water rate which accrued due before the date of the purchase. *East London Waterworks Co. v. Kellerman* (1892), 2 Q. B. 72; 56 J. P. 773.



50 & 51 Vict.  
c. 21.

shall have omitted so to pay such water rate; and provided also, that no greater sum shall be recovered at any one time from any such occupier than the amount of rent owing by him, or which shall have accrued due from him since such notice shall have been given or left as aforesaid, and that every such occupier shall be entitled to deduct from the rent payable by him the sum so recovered from him or which he shall have paid on demand.

Penalty on  
cutting off of  
supply in con-  
travention of  
the Act.

5. In the event of any such supply being cut off in contravention of this Act, the company cutting off the same shall be liable to a penalty not exceeding five pounds for each day during which the water shall remain cut off, which penalty shall be recoverable summarily from the company by, and shall be paid to, the person aggrieved.

### METROPOLIS WATER ACT, 1852.

15 & 16 Vict. c. 84. An Act to make better Provision respecting the Supply of Water to the Metropolis. [1st July, 1852]

Restriction  
as to sources  
of supply of  
water to the  
Metropolis.

1. It shall not be lawful for any company supplying the Metropolis or any part thereof with water for domestic use (x) . . . to take any water for such purpose from any part of the river Thames below Teddington Lock, or from any part of any of the tributary rivers or streams of the river Thames below the highest point where the tide flows in such tributary rivers and streams respectively (x) . . .

Reservoirs,  
within a  
limited dis-  
tance to be  
covered.

2. Every reservoir within a distance in a straight line from St. Paul's Cathedral in the City of London of not more than five miles, in which water for the supply for domestic use of the Metropolis or any part thereof is stored or kept by any company, shall be roofed in or otherwise covered over: Provided always, that this provision shall not extend to any reservoir the water from which is subjected by the company to efficient filtration after it is discharged from such reservoir, and before it is passed into the mains or pipes of the company for distribution, or to any reservoir the whole of the water from which is distributed through distinct mains or pipes for other than domestic purposes, nor to any reservoir whatever the water stored in which shall be used exclusively for other than domestic purposes.

Water not to  
be brought  
within a  
limited dis-  
tance in open  
aqueducts.  
Every company  
to filter all  
water supplied  
by them for  
domestic use.  
Company to  
give notice  
to Local  
Government  
Board before  
resorting to  
new sources  
of supply,  
who may  
thereupon  
appoint an  
inspector  
to report.

3. No water shall be brought or conducted within the Metropolis by any company for the purpose of domestic use otherwise than through pipes or through covered aqueducts, unless the same shall be afterwards filtered before distribution.

4. Every company shall effectually filter all water supplied by them within the Metropolis for domestic use before the same shall pass into the pipes for distribution, excepting any water which may be pumped from wells into a covered reservoir or aqueduct, without exposure to the atmosphere, and which shall not be afterwards mixed with unfiltered water.

5. Three months before any company shall resort to any new source of supply such company shall give notice in writing thereof to the *Lords of the Committee of Privy Council for Trade and Plantations*, herein after called the *Board of Trade* (y), and thereupon, within one month after receipt of such notice, the said *Board of Trade* (y) shall, if they think fit, appoint a competent person as an inspector, who shall report with respect to any sources then specially authorised by Parliament, whether the directions of the special Act have been complied with in reference thereto, and with respect to any new sources not specially authorised by Parliament, whether the same are capable of supplying good and wholesome water for domestic purposes.

(x) **Section 1.**—The omitted words were repealed by 15 & 16 Vict. c. 84 (Statute Law Revision).

(y) **Board of Trade.**—The powers and duties of the Board of Trade under this Act and the Metropolis Water Act, 1871, are transferred to the Local Govt. Bd. See the Pub. Hlth. Act, 1875 (38 & 39 Vict. c. 55), sec. 343, sched. 5, part iii., cited in note to sec. 142 (5) of the Public Health (London) Act, 1891, *ante*, vol. i.

6. The inspector so appointed as aforesaid shall within ten days after such appointment give notice in writing to the company thereof, and of the time at which he proposes to visit and inspect the said sources, and thereupon, in order to enable him to make such report as aforesaid, it shall be lawful for the said inspector to enter the lands wherein such sources respectively are situate, and to examine and make inquiry touching the premises.

7. The *Board of Trade* (z) shall, within twenty-one days after the receipt from the said inspector of his report, send to such company with respect to any such new sources of supply not specially authorised by Parliament, a certificate in writing of their approval or disapproval thereof, and with respect to any such sources as shall then be specially authorised by Parliament a notice in writing stating whether in the judgment of the said *Board of Trade* (z) the directions of the special Act have in reference thereto been complied with.

8. After the company shall have received a certificate that the said *Board of Trade* (z) disapproves of any such new sources of supply not specially authorised by Parliament as aforesaid, it shall not be lawful for the company to use the said source, and after receipt of such notice as aforesaid that in the judgment of the said Board of Trade the directions of the special Act with reference to any sources then specially authorised by Parliament have not been complied with it shall not be lawful for the company, before complying with such directions with reference to such source, to use the same.

9. If at any time complaint as to the quantity or quality of water supplied by any company for domestic use be made to the *Board of Trade* (z) by memorial in writing signed by not less than twenty inhabitant householders paying rents for and supplied with water by the company, it shall be lawful for the *Board of Trade* (z), at any time within one month after the receipt of such complaint, to appoint a competent person to inquire into and concerning the grounds of such complaint (a), and to report to the *Board of Trade* (z) thereon.

10. The person so appointed as aforesaid shall, within three days after such appointment, give notice thereof in writing to the company, and after such notice as aforesaid he shall have power to inspect and examine the waterworks of the company, and to inquire into and concerning the grounds of such complaint; and the company and their officers shall afford all reasonable facilities for such inspection, examination, and inquiry.

11. Any person obstructing such inspector in the due prosecution of such inspection, examination, or inquiry shall forfeit and pay any sum not exceeding ten pounds.

12. If after receipt of such report it shall appear to the *Board of Trade* (z) that the said complaint is well founded, the *Board of Trade* (z) shall give notice thereof in writing to the company.

13. After the receipt of such notice the company shall, and they are hereby required within a reasonable time to remove the grounds of such complaint.

14. Every steam engine, furnace, or other work in which coals which produce smoke during combustion shall be consumed by any company for the purpose of the waterworks shall be constructed on the most effectual principle for consuming its own smoke (b).

15 (c). . . Provided that neither the Kent Waterworks Company nor the Hampstead Waterworks Company shall be required to give such supply at any height exceeding one hundred and eighty feet above Trinity high-water mark, nor the East London Waterworks Company be required to give such supply at

15 & 16 Vict.  
c. 84.

Inspector to give notice to companies of his intention to visit new sources.

Local Government Board to certify their approval or disapproval of new sources. If Local Government Board disapprove, company not to use new source of supply.

On complaint as to quantity and quality, Local Government Board may appoint a person to inquire and report. Powers of person appointed.

Penalty for obstructing inspector.

If complaint well founded, notice to be given to company. Company to remove ground of complaint. Engines to consume their own smoke. Provision for constant supply of water by every company.

(z) *Board of Trade*.—See note (y) on page 1320.

(a) *After receipt of complaint*.—A person may now be appointed to inquire and report, notwithstanding that no complaint has been made as prescribed by this section. *Metrop. Water Act, 1871, sec. 35, post.*

(b) *Consume its own smoke*.—See further the Public Health (London) Act, 1891, sec. 23, *ante*.

(c) *Section 15*.—The words omitted related to the provision of a constant supply of water, and are repealed by the Metropolis Water Act, 1871, sec. 5, *post*, so far as regards their operation within the limits of that Act.

15 & 16 Vict.  
c. 84.

Penalty for  
non-compliance with the  
provisions of  
the Act.

Map of  
underground  
works of the  
companies to  
be made,  
and kept at  
principal office  
of each company,  
and be open to  
inspection.

Companies  
to furnish  
particulars of  
pipes when  
required.

Cisterns,  
closets, and  
baths to be so  
constructed as  
to prevent  
waste, or the  
flow or return  
of impure  
matter into  
the mains, &c.

Restricting  
communication  
with pipes of  
the company.

Water may be  
cut off in  
certain cases.

any height exceeding forty feet above the level of the pavement nearest the point at which such supply shall be required.

16. Any company which shall violate, refuse, or neglect to comply with any of the provisions hereinbefore contained shall forfeit to Her Majesty the sum of two hundred pounds, and the further sum of one hundred pounds for every month during which they shall continue to violate or to refuse or neglect to comply with the same after they shall have received notice in writing from the Board of Trade to discontinue such violation, refusal, or neglect as aforesaid.

17. Every company shall, within one year after the passing of this Act, cause a map to be made of the district within which any mains or *district mains* (d) shall have been laid down or formed by them on a scale not less than six inches to a mile, and shall cause to be marked thereon the course and situation of all existing mains and *district mains* (d), and shall, within six months from the making of any alterations or additions, cause the said maps to be from time to time corrected, and such additions made thereto as may show the line and situation of all such mains and *district mains* (d) as may be laid down or formed by them from time to time after the passing of this Act; and such map, or a copy thereof, with the date expressed thereon of the last time when the same shall have been so corrected as aforesaid, shall be kept in the principal office of each company, and shall be open to the inspection of all persons interested in the same within the said district, who shall be at liberty to take copies of or extracts from the same.

18. Every company, on the application of any person supplied with water by such company, shall furnish to such person the particulars of any *district main* (d) from which such person is supplied, together with the names of the streets through which such *district main* (d) passes, and the commencement and termination thereof.

19—22. [*Repealed by the Metropolis Water Act, 1871, sec. 5, post, so far as regards their operation within the limits of that Act.*]

23. Every cistern or other receptacle for water, and every closet, soil-pan, and private bath which shall be supplied with water by any company, shall be so constructed and used as effectually to prevent the waste, misuse, or undue consumption of water, and the flow or return of foul air or other noisome or impure matter into the mains or pipes of the company, or into any pipes connected or communicating therewith (e); and notwithstanding anything in "The Waterworks Clauses Act, 1847," or in this Act contained, no company shall be bound to supply water into any cistern or other receptacle for water, closet, soil-pan, or private bath, which shall not be so constructed and used.

24. No person shall make or lay down, or permit to be made or laid down, any pipe or other means or contrivance for taking, using, or obtaining water to communicate with any pipe or apparatus connected with any of the mains or pipes of any company without giving such notice, and except under such superintendence, and according to such direction as is provided by "The Waterworks Clauses Act, 1847," with respect to the communication pipes to be laid by the inhabitants (f).

25. If any person supplied with water by any company shall wilfully do or cause to be done any act, matter, or thing in contravention of the provisions of this Act, or of the special Act relating to such company, or of any Act incorporated therewith, or shall wilfully omit or neglect to do any matter or thing which under such provisions ought to be done for the prevention of the waste,

(d) *District mains*.—Secs. 17 and 18 are to be read as if, instead of the words "*district mains*" and "*district main*," the words "*pipes*" and "*pipe*" were substituted respectively; and every company is required to cause to be marked upon the map every screwcock or apparatus by means of which water is permitted to flow or is prevented from flowing from the main into any pipe within the water limits of such company. Metropolis Water Act, 1871, sec. 49, *post*.

(e) *Waste and misuse of water*.—See also the Waterworks Clauses Acts, 1847, secs. 54—57, and 1863, secs. 16 and 17, *ante*, and the Metropolis Water Act, 1871, sec. 17, and the West Middlesex Waterworks Act, 1852, secs. 35 to 38, *post*.

(f) *Communication pipes laid by inhabitants*.—See the Waterworks Clauses Act, 1847, sec. 44 *et seq.*, *ante*.



misuse, or undue consumption, or the contamination of the water of the company, it shall be lawful for the company to turn off the water supplied by them to such person, and to cease to supply such person with water (*g*), and also to recover from such person by action or suit in any court of competent jurisdiction the amount of any loss, damage, or injury which such company may sustain by means or in consequence of any such Act, matter, or thing as aforesaid, or of any such wilful omission or neglect as aforesaid.

26. It shall be lawful for any company from time to time (*h*) . . . to make such regulations (*i*) as shall be necessary or expedient for the purpose of preventing the waste or misuse of water, and therein, amongst other things, to prescribe the size, nature, and strength of the pipes, cocks, cisterns, and other apparatus to be used, and to interdict any arrangements, and the use of any pipes, cocks, cisterns, or other apparatus, which may tend to such waste or misuse as aforesaid.

15 & 16 Vict.  
c. 84.

Regulations to  
be made.

27. [Repealed by *Metropolis Water Act, 1871, sec. 5, post, so far as regards its operation within the limits of that Act.*]

28. In citing this Act in other Acts and in legal instruments it shall be enough to use the expression "The Metropolis Water Act, 1852."

Short title.

29. In the construction of this Act the expression "company" shall mean and include any of the companies hereinafter enumerated; that is to say, the Governor and Company of the New River brought from Chadwell and Amwell to London, commonly called "The New River Company"; the company of proprietors of the East London Waterworks; the Southwark and Vauxhall Water Company; the West Middlesex Waterworks Company; the Lambeth Waterworks Company; the Governor and Company of Chelsea Waterworks; the Grand Junction Waterworks Company; the Company of Proprietors of the Kent Waterworks; and the Hampstead Waterworks Company; and also any other company, board, commissioner, association, person, or partnership, corporate or unincorporate, for the time being supplying the Metropolis or any part thereof with water for domestic use; the expression "the special Act" shall mean and include this Act, and every and any Act of Parliament relating to the company referred to; and the expression "the Metropolis" shall mean and include all places described or referred to in the schedule to this Act.

Interpretation  
of terms.

#### The SCHEDULE above referred to.

All such places lying on the north side or left bank of the river Thames as are within the exterior boundaries of and are within the ambit formed by the parishes of Fulham, Hammersmith, Kensington, Paddington, Hampstead, Hornsey, Tottenham, Saint Pancras, Islington, Stoke Newington, Hackney, Stratford-le-Bow, Bromley, Poplar, and Shadwell.

Section 29.

Such part of the parish of Chelsea as lies north of the said parish of Kensington.

And such parts and places lying on the south side or right bank of the said river as are within the exterior boundaries of and are within the ambit formed by the parishes of Woolwich, Charlton, Greenwich, Deptford, Lee, Lewisham, Camberwell, Lambeth, Streatham, Tooting, Wandsworth, and Putney.

(*g*) **Cutting off water.**—Within twenty-four hours after cutting off the water, the water company is required by sec. 49 of the Public Health (London) Act, 1891, *ante*, vol. i., to give notice thereof in writing to the sanitary authority.

For further provisions as to cutting off water, see the Waterworks Clauses Act, 1847, secs. 54, 57, and 74; the Waterworks Clauses Act, 1863, sec. 16; the Water Companies (Regulation of Powers) Act, 1887, sec. 4, *ante*; the Metropolis Water Act, 1871, sec. 32; and the West Middlesex Waterworks Act, 1852, secs. 35 and 38, *post*.

(*h*) **Section 26.**—The words omitted are repealed by 38 & 39 Vict. c. 66 (Statute Law Revision).

(*i*) **Regulations.**—As to the confirmation, publication, and effect of such regulations, see the Metropolis Water Act, 1871, secs. 17 to 25, *post*.

## METROPOLIS WATER ACT, 1871.

**34 & 35 Vict. c. 113.** An Act to amend “The Metropolis Water Act, 1852,” and to make further provision for the due Supply of Water to the Metropolis and certain places in the neighbourhood thereof. [21st August, 1871]

[*Preamble recites the Metropolis Water Act, 1852.*]

*Preliminary.*

Short title.

1. This Act may be cited for all purposes as “The Metropolis Water Act, 1871.”

This and  
recited Act to  
be as one.  
Interpretation  
of terms.

2. This Act and the Metropolis Water Act, 1852, as the same is amended by this Act, shall be read and construed together as one Act.

3. In this Act—

The expression “the Metropolis” shall mean the Metropolis as defined by the Metropolis Management Act, 1855:

The term “company” shall mean and include any of the companies following (*k*); that is to say—

The Governor and Company of the New River brought from Chadwell and Amwell to London, commonly called “The New River Company”;

The East London Waterworks;

The Southwark and Vauxhall Water Company;

The Company of Proprietors of the West Middlesex Waterworks Company;

The Company of Proprietors of Lambeth Waterworks;

The Governor and Company of Chelsea Waterworks;

The Grand Junction Waterworks Company;

The Company of Proprietors of the Kent Waterworks;

and also any other corporation, company, board, commissioners, association, person, persons, or partnership, for the time being supplying water for domestic use within the limits of this Act:

The term “person” shall include a corporation aggregate or sole:

The expression “water limits” in relation to a company shall mean such parts of the limits within which such company is authorised to supply water as are within the limits of this Act:

The expression “the special Act” in relation to a company shall mean and include every and any Act of Parliament relating to such company:

The expression “metropolitan authority” shall mean, in the places specified in the table in the schedule A. to this Act annexed the bodies or persons named in the same table:

The term “district” shall mean the area selected for the purpose of constant supply, such area being within the jurisdiction of a metropolitan authority, and also within the water limits of a company, and being coterminous with some one or more services of such company:

The term “premises” shall mean and include any dwelling-house and any part of a dwelling-house, and any stable, yard, or other offices used together or in connexion with any dwelling-house or any part of a dwelling-house:

The term “prescribed” shall mean prescribed by any regulations made under the authority of this Act:

\* \* \* \* \*

The term “fittings” includes communication pipes, and also all pipes, cocks, cisterns, and other apparatus used or intended for supply of water by a company to a consumer, and for that purpose placed in or about the premises of the consumer:

The term “owner” means the person who, for the time being, receives the rackrent of the premises with reference to which that term is used, whether on his own account or under or by virtue of any mortgage or charge, or as agent or trustee for any person, or who would so receive the same if the

(*k*) **Companies following.**—The eight companies referred to in this section comprise the whole of the London water companies. For the list of their special Acts, see note to the schedule of the London Water Act, 1892, *post*.

premises were let at a rackrent, and includes every successive owner from time to time of the premises, being such for any part of the time during which the enactment wherein that term is used operates in relation to the premises :

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Premises shall be deemed to be on the same service, or on a service, when water is supplied to them by a company from the same service pipe.

4. The limits within which the provisions of this Act shall be in force and have effect (in this Act referred to as "the limits of this Act") shall include the Metropolis and the several places set out in the schedule to the Metropolis Water Act, 1852, which do not form part of the Metropolis.

Limits of Act.

5. [*Repeal of parts of Metropolis Water Act, 1852, specified in schedule B. Rep. by 46 & 47 Vict. c. 39. Statute Law Revision.*]

6. Every company shall on Sundays as on other days supply sufficient pure and wholesome water for the domestic use of the inhabitants within their water limits.

Supply of  
water on  
Sundays.

*Constant Supply.*

7. Subject to the provisions of this Act every company may, and every company shall, when required so to do, in the manner directed by this Act, provide and keep throughout their water limits, or throughout such parts of such limits as they may be required in manner aforesaid, a constant supply of pure and wholesome water sufficient for the domestic purposes (*l*) of the inhabitants within such water limits constantly laid on at such pressure as will make such water reach the top story of the highest houses within such water limits (but not exceeding the level prescribed by the special Act) of such company (which supply is in this Act referred to as a "constant supply"); and every such company shall, subject to the provisions of the special Act as the same are amended by this Act, give and continue to give to such inhabitants a constant supply for domestic purposes in manner prescribed.

Companies  
to provide  
constant supply  
of water.

8. The Metropolitan authority shall, whenever they are of opinion that there should be in any district a constant supply, make application to the company within the water limits in which such district is situate, requiring a constant supply in such district, and any company may without any such application propose to the metropolitan authority to give a constant supply in any district.

Application  
for constant  
supply.

9. When application has been made to any company requiring such company to provide a constant supply, or when any company has given notice to a metropolitan authority of a proposal to give a constant supply in any district, and the company so required, or the metropolitan authority upon whom notice of such proposal has been served, object to such requisition or proposal, it shall be lawful for such company or metropolitan authority, within one month after the making of such application or service of such notice, to present a memorial to the *Board of Trade* (*m*), setting forth their objections to such requisition or proposal, and the party presenting such memorial, or such company, shall give notice to the other party of the presentation of such memorial, and shall transmit to such party a copy of the same. The *Board of Trade* (*m*) shall, as soon as conveniently may be after the receipt of such memorial, take the same into their consideration, and may, if they think fit, institute any inquiry in relation thereto, and may hear such company and authority desiring to be heard, and may make such order in reference thereto, and as to the costs thereof and incident to the same, as to them shall seem just.

Appeal to  
Local Govern-  
ment Board.

10. No company shall be compelled to give a constant supply to any premises in any district until the regulations provided for by this Act are made and are in operation within such district, or if it can be shown by such company that at any time after the expiration of two months from the time of the service of any requisition for constant supply more than one fifth of the premises in such

Restriction as  
to compulsory  
supply by  
companies.

(*l*) **Domestic purposes.**—See the West Middlesex Waterworks Act, 1852, sec. 42 and note thereto, *post*.

(*m*) **Board of Trade.**—The powers and duties of the Board of Trade under this Act and the Metropolis Water Act, 1852, are transferred to the Local Govt. Bd. See the Public Health Act, 1875 (38 & 39 Vict. c. 55), sec. 343, sched. 5, part iii., cited in note to sec. 142 (*5*) of the Public Health (London) Act, 1891, *ante*, vol. i.



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c. 113.

district are not provided with the prescribed fittings, without prejudice nevertheless to any renewed requisition at a future period.

In any district in which any default in respect of the prescribed fittings shall be found, the metropolitan authority may by notice in writing require the owner or occupier of any such premises, within a time to be specified in such notice, to provide the prescribed fittings, or to cause the fittings in such premises to be repaired so as to prevent any waste of water, and if any person fail to comply with the terms of such notice the metropolitan authority may provide for such premises the prescribed fittings, or repair the fittings within the same, as the case may be.

The expenses incurred by the metropolitan authority in providing such fittings or in making such repairs shall be paid to them by the person liable to pay the rate for the water supplied, or on whose credit the water is supplied, or by the owner of the premises.

All such expenses may be recovered, with costs, from the owner, and to the extent of any rent due by the occupier of the premises, from such occupier, by proceedings in a court of summary jurisdiction, or by action in any court having jurisdiction locally in the matter, as if the same were an ordinary simple contract debt; and any sum and costs so recovered from an occupier may be deducted by him from the rent payable by him to the owner, and shall be allowed by the owner and every other person interested in the rent, as if the same had been actually paid as rent; but if in any case an occupier fails to disclose the amount of rent due by him, or the name or address of the owner, he shall be liable to pay the full amount of such expenses and costs: Provided further that as between any such owner and occupier nothing herein contained shall be taken to affect any contract made between them respecting the payment of the expenses of any such works as aforesaid.

Power to Local  
Government  
Board to  
require constant supply  
in certain  
cases.

11. It shall be lawful for the *Board of Trade* (n), at any time, to require a constant supply to be provided in any district by the company within the water limits of which such district is situate, upon complaint made, and in case it appears to such Board, after due inquiry—

That the metropolitan authority refuses to make or unreasonably delays making application for such constant supply, or

That by reason of the insufficiency of the existing supply of water in such district, or the unwholesomeness of such water in consequence of its being improperly stored, the health of the inhabitants of such district is or is likely to be prejudicially affected.

Notice re-  
quiring or  
proposing  
constant  
supply to be  
served upon  
company or  
metropolitan  
authority.

12. Where a constant supply is required in any district, notice to that effect shall be served, on behalf of the party requiring the same, upon the company required to provide such supply; and where a constant supply is proposed to be given in any district by any company, notice to that effect shall be served on behalf of such company upon the metropolitan authority. In every such notice shall be stated accurately the district in which such constant supply is required or proposed to be given, and the day (not being an earlier day than four months after the date of the service of such notice) upon and from which such supply is to commence.

Extension of  
time to  
companies.

13. Where a constant supply is required in any district, and the company is unable, from want of funds or other cause of any kind, to execute all the necessary works within the time prescribed by this Act, the *Board of Trade* (n), if they think fit, may extend the time for the giving of such supply generally, or may extend the time, and direct such supply to be given at different times in succession, to the several parts of such district, in such manner as may be found most convenient: Provided that application be made by the company for such extension of time within one month after the notice referred to in the last preceding section has been served upon them.

Provision for  
supply in  
courts, pas-  
sages &c.

14. With respect to cases where a group or number of dwelling-houses are situate in a court or passage, or otherwise in contiguity with or in close neighbourhood to one another, the following further provisions shall have effect; that is to say,

(1) If at any time it appears to the *Board of Trade* (n), on the report of the

(n) **Board of Trade.**—Now the Local Govt. B. See note (m) on page 1325.

nuisance authority as defined by the Sanitary Act, 1866 (o), that a constant supply cannot be well and effectually provided for that group or number of dwelling-houses, except by means of a stand-pipe (p) or other apparatus placed outside the dwelling-houses the *Board of Trade* (q) may from time to time make an order to the effect that such group or number of dwelling-houses may be so supplied, and shall serve the same on the company within whose water limits the dwelling-houses are situate :

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(2) If the requisite stand-pipe or other apparatus in accordance with the regulations of the company is provided, then the company shall give to those dwelling-houses a supply accordingly by means of the stand-pipe or other apparatus so provided, and on giving such supply shall be entitled to receive and recover water rates or rents from the owners or occupiers of such dwelling-houses as if the supply had been given in the premises. The expense of providing such stand-pipe or other apparatus shall be borne by the owner of the dwelling-houses, or if there is more than one owner then by the respective owners in such proportions as the *Board of Trade* (q) shall direct :

(3) The *Board of Trade* (q) may at any time abrogate, wholly or in part, the order, or may originally grant it only for a limited period.

15. Notwithstanding anything in this Act, a company shall not be subject to any liability for not giving a constant supply if the want of such supply arises from frost, unusual drought, or other unavoidable cause or accident (r). Provision for case of frost, &c.

16. Any company which violates, refuses, or neglects to comply with any of the preceding provisions of this Act shall be liable to a penalty not exceeding two hundred pounds and to a further penalty not exceeding one hundred pounds for every month during which such violation or refusal or neglect to comply with the said provisions continues after they shall have received notice in writing from the *Board of Trade* (q) to discontinue such violation, refusal, or neglect as aforesaid (s). Penalties for non-compliance with preceding provisions.

#### *Regulations.*

17. Every company shall, within six months after the passing of this Act, make regulations for the purpose for which regulations may be made under the authority of section twenty-six of the Metropolitan Water Act, 1852, and the provisions of that section shall apply also to the preventing of undue consumption or contamination of water. Company may make regulations.

18. Any company, if it thinks fit, or if requested so to do by the *Board of Trade* (q), may repeal or alter any of the regulations made for the purposes aforesaid, or make new regulations instead of any of the same. Amendment of regulations.

19. In case any company does not make regulations within the time specified in this Act, or in case any company, on being requested in writing by the metropolitan authority, or by any ten consumers of the water supplied by that company, to repeal or alter any of the regulations for the time being in force, or to make new regulations instead of any of the same, refuses so to do, the *Board of Trade* (q) may, if they think fit, appoint a competent and impartial person of engineering knowledge and experience to report to them as to such regulations as may be necessary for the execution of this Act, or as to the expediency of altering or repealing such regulations, or of making new regulations, in conformity with such request as aforesaid, and on the report of such person the *Board of Trade* (q) may make such regulations, repeal, or alterations as they think fit. In case of default by companies, Local Government Board may appoint person to report as to regulations, and may make same.

(o) **Nuisance authority.** Sanitary Act, 1866.—See note to sec. 32, *post*.

(p) **Stand-pipe.**—As to placing stand cocks, &c. in streets and public places in times of frost, see the Metropolitan Paving Act, 1817, sec. 21, *ante*, vol. i.

(q) **Board of Trade.**—Now the Local Govt. Bd. See note to sec. 9, *ante*.

(r) **Unusual drought, &c.**—See the Waterworks Clauses Act, 1847, sec. 42 and note thereto, *ante*.

(s) **Recovery of penalties.**—The metropolitan authority can only take proceedings for the recovery of penalties incurred under this section. A private individual cannot do so, his remedy for personal injury to himself through insufficient supply being under sec. 43 of the Waterworks Clauses Act, 1847, *ante*. *Kyffin v. East London Waterworks Co.* (1896), 1 Q. B. 446 ; 65 L. J. M. C. 60.

34 & 35 Vict.  
c. 113.

Penalties for  
offences against  
regulations.

Notice of  
regulations to  
be delivered  
to metropolitan  
authority.

Confirmation  
of regulations.

Publication  
of regulations.

Regulations to  
be binding  
upon all  
parties.

Evidence of  
regulations.

20. By any regulations made under the authority of the Metropolis Water Act, 1852, or of this Act, penalties may be imposed for offences against the same not exceeding in respect of any offence the sum of five pounds, so that every such regulation be so framed as to allow part only of the maximum penalty being inflicted, and any such penalty shall be recoverable as penalties under this Act are recoverable.

21. Within four days after the making of any regulation, or of any repeal of or alteration in any regulation, notice of the same shall be served upon the metropolitan authority by the company or person making the same.

22. No regulation, and no repeal or alteration of any regulation, made under the authority of the Metropolis Water Act, 1852, or of this Act, by a company, shall be of any force or effect unless and until the same be submitted to and confirmed by the *Board of Trade*(t), who may institute such inquiry in relation thereto as they shall think fit, and who at such inquiry shall hear the metropolitan authority, and the company, if desiring to be heard, and the said Board shall, if they think fit, or if requested, nominate and have present at such inquiry to advise and assist them a competent and impartial waterworks engineer. The *Board of Trade*(t) may, after such inquiry, confirm or disallow any such regulation, repeal, or alteration, in whole or in part, or may confirm the same with such modification or alteration as they may think proper; and no such regulation, repeal, or alteration shall be made by the *Board of Trade*(t) on any such report as aforesaid, except after a like inquiry and hearing, with the like advice and assistance as aforesaid: Provided that no such regulation, repeal, or alteration shall be confirmed or made (as the case may be) by the *Board of Trade*(t) unless notice in that behalf shall have been given by the company to which the same relates, or by such person as the *Board of Trade*(t) direct, in the London Gazette and in two daily morning newspapers circulated within the limits of this Act, one month at least before the inquiry; and one month at least before any such inquiry is held a copy of the regulation, repeal, or alteration in question shall be sent by such company or person to the office of the metropolitan authority, and the same shall for one month be kept open during office hours at the respective offices of the metropolitan authority and of the said company to the inspection of all persons, without fee or reward, and a copy of the same or of any part thereof shall be furnished to every person who shall apply for the same, on payment of sixpence for every one hundred words contained in such copy.

23. A printed copy of all regulations in force for the time being shall be kept at the office of the metropolitan authority and of every company within the limits of this Act, and all persons may at all reasonable times inspect such copy without payment, and each company shall cause to be delivered a printed copy, authenticated by their seal, of all regulations for the time being in force to every person applying for the same, on payment of any sum not exceeding one shilling and sixpence for every such copy, and a printed copy of the regulations for the time being in force relative to any particular district only to every person applying for the same, on payment of any sum not exceeding threepence for every such copy.

24. All regulations, and every repeal of or alteration in any regulation made, shall, after publication in manner by the last preceding section of this Act directed, be binding upon and be observed by all parties, and shall be sufficient warrant for all persons acting under the same, and a company shall not be bound under any agreement to supply or continue to supply water to any premises unless such regulations as are for the time being in force are duly observed in respect of those premises.

25. A printed copy of regulations relating to any company, dated and purporting to be made as aforesaid, and to be authenticated by the seal of such company, shall be conclusive evidence of the existence and of the due making, confirmation, and publication of such regulations in all prosecutions or proceedings under the same, without adducing proof of such seals, or of the fact of such confirmation or publication of such regulations or of any of the requirements of this Act relative thereto having been complied with.

(t) *Board of Trade*.—Now the Local Govt. Bd. See note to sec. 9, ante.



*Supply of prescribed Fittings.*34 & 35 Vict.  
c. 113.

26. When notice in relation to a constant supply in any district has been served upon or by any company, the party by whom or on whose behalf such notice shall be served shall, within five days after the service thereof, cause to be published a copy of the same once in the London Gazette, and copies of the same once at least in each of two successive weeks in any two daily newspapers circulated within the limits of this Act.

Notice relating to constant supply to be published in London Gazette, &c.

27. Where in any district any company is required or has proposed to provide a constant supply, such company may, at any time after the expiration of one month after the publication in the London Gazette of a copy of the notice requiring or proposing such constant supply, unless a memorial or application has been presented or made to the *Board of Trade* (*u*) objecting to such constant supply or seeking an extension of time, and if any such memorial or application has been presented or made, then at such time after the determination of the Board of Trade in relation to such memorial or application as such Board shall approve and order, cause to be served on the owner or occupier of any premises within such district a notice requiring such owner or occupier to supply such premises with the prescribed fittings.

Company may issue notice upon owners and occupiers to provide prescribed fittings.

28. Every owner or occupier of premises upon whom notice to that effect has been served shall, within two months after the date of the service of such notice, provide the prescribed fittings, and shall from time to time keep the same in proper repair.

Owner or occupier to provide prescribed fittings.

29. Where in any district any company is required or has proposed to provide a constant supply, and

Any owner or occupier of premises upon whom notice to provide prescribed fittings has been served by such company makes default in providing the prescribed fittings, such company, if they think fit, may provide such fittings; or

Where in any such district the fittings of any person are out of order, and not as prescribed, such company may by notice in writing require such person, within twenty-four hours after the date of the service of such notice, to cause the same to be repaired, so as to prevent any waste of water; and if any person fail to comply with the terms of such notice such company (if they think fit) may repair the fittings of such person.

In case of default by owner or occupier, company may provide or repair prescribed fittings.

The expenses incurred by such company in providing such fittings or in making such repairs shall be paid to them by the person liable to pay the rate for the water supplied or on whose credit the water is supplied by means of such fittings, or by the owner of the premises.

All such expenses may be recovered, with costs, from the owner, and to the extent of any rent due by the occupier of the premises from such occupier, by proceedings in a court of summary jurisdiction, or by action in any court having jurisdiction locally in the matter, as if the same were an ordinary simple contract debt; and any sum and costs so recovered from an occupier may be deducted by him from the rent payable by him to the owner, and shall be allowed by the owner and every other person interested in the rent, as if the same had been actually paid as rent; but if in any case an occupier fails to disclose the amount of rent due by him, or the name or address of the owner, he shall be liable to pay the whole amount of such expenses and costs: Provided, that as between any such owner and occupier nothing herein contained shall be taken to affect any contract made between them respecting the payment of the expenses of any such works as aforesaid.

30. Where in any district any company is required or has proposed to provide a constant supply, the officers or agents of such company, or of the party requiring such supply, or any person appointed for such purpose by the *Board of Trade* (*u*) may, at all reasonable times, enter any premises within such district, in order to inspect the premises for the purposes of this Act, and examine the same with a view to ascertain whether there are in or about the same the prescribed fittings, or, where authorised under the provisions of this Act, to provide or repair the fittings; and if any person hinder any such officer, agent, or person from entering and making such inspection or examination, or providing or repairing such fittings, every person so offending shall for every such offence be liable to a penalty not exceeding five pounds.

Power to enter premises for inspection and repair of fittings.

(*u*) **Board of Trade.**—Now the Local Govt. Bd. See note to sec. 9, *ante*.

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c. 113.

Settlement of  
disputes as to  
sufficiency, &c.  
of fittings.  
Penalties for  
non-compliance  
with the  
provisions  
of Act.

Absence of  
proper water  
fittings in  
premises to be  
a nuisance.

Provision  
respecting  
fire-plugs.

**31.** In the event of any dispute as to whether the fittings of any person are as prescribed, such dispute shall be settled by the court of summary jurisdiction. on the application of either party, which court may make such order as to the amount of the costs of the proceedings before such court as seems just, and the decision of such court shall be final and binding on all parties.

**32.** Where in any district any company is required or has proposed to provide a constant supply—

If any person supplied with water by such company wilfully or negligently causes or suffers any fittings to be out of repair, or to be so used or contrived as that the water supplied to him by such company is or is likely to be wasted, misused, unduly consumed, or contaminated, or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe belonging to or connected with the pipes of such company, he shall for every such offence be liable to a penalty not exceeding five pounds; or

If any person supplied with water by such company wrongfully does or causes or permits to be done anything in contravention of any of the provisions of the special Act or this Act, or wrongfully fails to do anything which, under any of those provisions, ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water of such company, they may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied by them to him or for his use, and may cease to supply him with water, so long as the cause of injury remains or is not remedied; and in every case of so cutting off or ceasing to supply, the company shall within twenty-four hours thereafter give to the nuisance authority, as defined by the Sanitary Act, 1866, notice thereof (x).

**33.** The absence in respect of any premises of the prescribed fittings after the prescribed time shall be a nuisance, within section 11 and sections 12—19 (inclusive) of the Nuisances Removal Act for England, 1855 (y), and within all provisions of the same or any other Act applying, amending, or otherwise relating to those sections; and that nuisance, if in any case proved to exist, shall be presumed to be such as to render the premises unfit for human habitation within section 13 of the Nuisances Removal Act for England, 1855 (y), unless and until the contrary is shown to the satisfaction of the justices acting under that section.

**34.** Section 32 of the Metropolitan Fire Brigade Act, 1865, shall operate, subject and according to the provisions following; that is to say—

(1) In that section and in this provision the term “fire-plug” and the term “plug” shall include hydrant and all other apparatus necessary or proper in connexion with the company’s pipes for supply of water in case of fire (z)

(x) **Notice to nuisance authority. Sanitary Act, 1866.**—Sanitary authorities are now substituted for nuisance authorities by secs. 14 (2) and 99 of the Public Health (London) Act, 1891, *ante*, vol. i. The Sanitary Act, 1866, is repealed, and the present section must be read as if the corresponding provisions of the Public Health (London) Act, 1891, were therein referred to instead of the repealed Act. *Ib.*, sec. 142. Within twenty-four hours of exercising their right of cutting off the water the water company is required to give notice thereof in writing to the sanitary authority. *Ib.*, sec. 49. And see *Young v. Southwark and Vauxhall Water Co.*, cited in note thereto.

For further provisions as to cutting off water, see the Waterworks Clauses Act, 1847, secs. 54, 57, and 74; the Waterworks Clauses Act, 1863, sec. 16; the Water Companies (Regulation of Powers) Act, 1887, sec. 4; and the Metropolitan Water Act, 1852, sec. 25, *ante*; and the Middlesex Waterworks Act, 1852, secs. 35 and 38, *post*.

(y) **Nuisances Removal Act for England, 1855.**—This Act is repealed by the Public Health (London) Act, 1891, and the above section must be read as if the corresponding provisions of the latter Act were referred to instead of the repealed Act. *Ib.*, sec. 142. For the substituted provisions see *ib.*, secs. 2 (1) (f) and 4 (3) (d), *ante*, vol. i.

(z) **Fire hydrants for flushing purposes.**—The London County Council (Genl. Powers) Act, 1894 (57 & 58 Vict. ch. cxxii.), sec. 4, enacts that “It shall be lawful for the council to enter into and carry into effect any agreement with the companies supplying water in London and the vestries and district boards of works in London or any of them respectively with respect to the use of fire hydrants for flushing and other purposes. Provided that no agreement under this section with respect to any hydrant shall be valid unless the company owning the main or pipe with which the hydrant is connected and the local authority (if any) to whom the hydrant belongs shall be a party thereto.”

- (2) Where a company give a constant supply in any part of their water limits they may, if they think fit, give notice thereof to the *Metropolitan Board of Works* (a): 34 & 35 Vict. c. 113.
- (3) If the *Metropolitan Board of Works* (a) do not within two months after receipt of any such notice specify, as regards that part of the company's water limits, what plugs for supply of water in case of fire, at what places, of what dimensions, and in what form they require the company to provide, then, at any time after the expiration of that time, the company may, if they think fit, provide in and for that part of their water limits such plugs for supply of water in case of fire, at such places, of such dimensions, and in such form as to the company seem necessary or proper:
- (4) Thereupon, as regards that part of the company's water limits, the company shall be deemed to have fully discharged all obligations imposed on them by the said section 32:
- (5) All plugs provided by a company in pursuance of this provision may, for the purposes of the fire brigade, be used as if they had been provided on the requisition of the *Metropolitan Board of Works* (a) under the said section 32:
- (6) The providing of plugs by a company under this provision shall be at the expense of the *Metropolitan Board of Works* (a), and the costs, charges, and expenses of the company in or about the providing of the same shall be paid to the company by the *Metropolitan Board of Works* (a), on demand, out of their general rate, and in default may be sued for and recovered, with costs, by the company in any court of competent jurisdiction for the recovery of any ordinary simple contract debt of the like amount (b).

*Quality of Water.*

35. The *Board of Trade* (c) may at any time, if and when they think fit, appoint a competent person to inquire into and report on the quality of the water furnished by any company, notwithstanding that no complaint has been made and signed by twenty inhabitant householders, as prescribed by section 9 of the *Metropolis Water Act*, 1852; and sections 10 and 11 and 13, and the other provisions of that Act, shall apply in every respect as if such person were appointed under section 9 of that Act, and as if any matter reported to the *Board of Trade* (c) as requiring alteration on the part of a company had been the subject of a complaint by such householders as aforesaid.

Power to board to appoint persons to inquire and report as to quality of water.

36. There shall be a water examiner, being a competent and impartial person, from time to time appointed by and removable by the *Board of Trade* (c), who shall from time to time, in such manner as the *Board of Trade* (c) direct, examine the water supplied by any company, in order to ascertain whether or not the company have complied with the requirements of section 4 of the *Metropolis Water Act*, 1852, and shall from time to time report the results of his several examinations to the *Board of Trade* (c); and the *Board of Trade* (c) shall send a copy of every such report to the company to which the same relates, and the company may, if they think fit, on each occasion of such examination, be represented thereat by some officer, but such officer shall not interfere in the examination.

Appointment and duties of water examiner.

There shall be paid to such water examiner such remuneration by the companies and in such proportions as such board appoints.

*Accounts.*

37. Every company shall, on or before the thirty-first day of July in each year, fill up and forward to the *Board of Trade* (c), and to the town clerk of the City of London, and to the *Metropolitan Board of Works* (a), and to the vestry clerk of each parish within which water is supplied by each company respectively not within the City of London, a statement of account, made up to the end of

Accounts, &c.

(a) *Met. Bd. Wks.*—Now the London County Council. *Loc. Govt. Act*, 1888, sec. 40 (8), *ante*, vol. i.

(b) *Cost of maintaining fire-plugs.*—See *Grand Junction Waterworks Co. v. Brentford Loc. Bd.*, *ante*, p. 1305.

(c) *Board of Trade.*—Now the Local Govt. Bd. See note to sec. 9, *ante*.



34 & 35 Vict. c. 113. their financial year then last passed, in such form and containing such particulars as may from time to time be prescribed by the Board of Trade.

Each company shall keep copies of such statement at their office for one year after the date thereof, and sell the same to any applicant at a price not exceeding one shilling for each such copy.

In case any company make default in complying with any of the provisions of this section, they shall be liable to a penalty not exceeding ten pounds for each day during which such default continues.

Auditor of accounts.

38. There shall be an auditor of the accounts of the companies, being a competent and impartial person, from time to time appointed by and removable by the *Board of Trade* (d).

There shall be paid to such auditor such remuneration by the companies and in such proportions as such board appoints.

Ascertainment of capital of companies.

39. The auditor shall, with all practicable speed after the passing of this Act, investigate the accounts of the companies, and ascertain and certify the amounts of their capitals, distinguishing share from loan capital, and shall ascertain and certify the capital of each company, and shall from time to time, as new capital shall be expended, in like manner ascertain and certify the amount of such new capital that has been bona fide expended for the purposes of the undertaking (e) . . .

Periodical audit of accounts.

40. The auditor shall once in every half-year audit the accounts of the companies.

If he finds the accounts correct he shall certify the same, but if in any instance he finds the accounts of any company incorrect in principle or in detail, he shall require such company to correct such accounts in such manner as he thinks right, and no future dividend shall in any case be declared by any company until their accounts are certified by the auditor; provided that the suspension of a dividend under this section shall not operate until after the expiration of nine months from the date of the audit.

Facilities for auditor.

41. Each company shall, during as well as subsequent to the close of that half-year to which the accounts relate, give to the auditor, his clerks and assistants, access to the books and documents of such company, and shall, when required, furnish to him and them all vouchers and information requisite for the purposes of the audit, and shall afford to him and them all facilities for the proper execution of his and their duty; and any company making default in complying with any of the provisions of this section shall, for every such default, be liable to a penalty not exceeding ten pounds.

Arbitration between auditor and company.

42. If any company think themselves aggrieved by any act or determination of the auditor, the matter in difference shall be referred to the determination of an arbitrator agreed on between such company and the auditor, or, in default of agreement, appointed, on the application of either party, by the Lord Chief Justice of the Court of Common Pleas; (f) . . . and, subject to this provision, such company shall observe and abide by the directions and determinations of the auditor.

#### Arbitration.

Disputes may be settled by arbitration.

43. Where any dispute arises between any persons whatsoever in relation to the execution of this Act, or to any act, matter, or thing incident to or consequent upon the execution of the same, and where the method of determining any such question in dispute is not expressly provided for, such question may, if the parties so desire, be settled by arbitration in manner prescribed by the Companies Clauses Consolidation Act, 1845, with respect to the settlement of disputes by arbitration (g).

#### Penalties.

Recovery and application of penalties.

44. Every penalty incurred by any company by reason of non-compliance with any of the provisions of this Act shall go and belong to the metropolitan

(d) *Board of Trade*.—Now the Local Govt. Bd. See note to sec. 9, *ante*.

(e) *Section 39*.—The remainder of this section was repealed by 46 & 47 Vict. c. 39 (Statute Law Revision).

(f) *Sections 42 and 46*.—The words omitted from these sections were repealed by 56 & 57 Vict. c. 54 (Statute Law Revision).

(g) *Arbitration*.—Secs. 128–134 of the Companies Clauses Consolidation Act, 1845, prescribe the manner of arbitration under that Act.

authority within the jurisdiction of which the same has been incurred, and may be sued for and recovered by such metropolitan authority in any court of competent jurisdiction for the recovery of any ordinary simple contract debt of the like amount, and shall be paid and applied as such metropolitan authority shall from time to time direct.

Every such penalty shall be borne and paid (to the satisfaction of the auditor appointed as in this Act provided) exclusively by and out of the divisible profits of the company by whom the penalty is incurred, and by way of reduction of dividend.

45. Except as is by the next preceding section expressly provided, all penalties under this Act may be sued for and recovered in the "court of summary jurisdiction."

Summary proceedings for penalties, &c.

*Miscellaneous.*

46. Any instrument (including a notice, order, resolution, declaration, requisition, consent, approval, disapproval, or other document) made, given, delivered, or served under this Act, or any regulation thereunder, . . . (h) if the instrument of a company, shall be sufficiently authenticated by the name of their secretary being affixed thereto in . . . (h) writing, or by a stamp on behalf of the company; and it shall be sufficient in all cases where any such instrument is required to be given to or served on the owner or occupier of any premises to address it to such owner or occupier by his description as owner or occupier (as the case may be) of the premises (naming them) in respect of which it is given or served, without further name or description; and any such instrument may be addressed to owners or occupiers of any number of contiguous or neighbouring premises collectively, and when so addressed may be served on more owners and occupiers than one (so that separate copies be served on the respective owners and occupiers of the several premises concerned; and any such instrument may be served on any owner, occupier, or other person either personally or by sending the same through the post in a letter addressed to him by name at his last known place of abode or business, or by delivering the same to some inmate at his last known or usual place of abode or business, or in case of an occupier to any inmate of the premises in respect of which it is given or served, or if the premises are unoccupied, and the place of abode of the person to be served is, after diligent inquiry, unknown, it shall be sufficient to affix it, or a copy thereof, on some conspicuous part of such premises.

Form and service, &c. of instruments.

47. Nothing in this Act shall be deemed to apply to any of the landed estate, houses, or property of the New River Company not directly used for or connected with their water supply, or to authorise or empower the auditor to investigate or audit any accounts of the New River Company other than those relating to their water supply.

Act not to apply to certain property and accounts of the New River Company.

48. In case any consumer leave the premises where water was supplied to him without paying to the company the rate due from him, the company shall not require from the next tenant of the premises payment of the arrears so left unpaid, unless the incoming tenant agreed with the defaulting consumer to pay the arrears, but the company shall, notwithstanding any such arrears, supply water to the incoming tenant, on being required by him so to do (i).

Incoming tenant not to pay arrears of outgoing tenant, unless by express agreement. Amendment of sections 17 and 18 of Metropolis Water Act, 1852.

49. Sections 17 and 18 of the Metropolis Water Act, 1852, shall be read as if instead of the words "district mains" and "district main" in the said sections the words "pipes" and "pipe" were substituted respectively; and every company shall, upon the map, and upon every alteration of the same made in conformity with the provisions of the said section 17, as amended by this section, cause to be marked every screw-cock or apparatus by means of which water is permitted to flow or is prevented from flowing from the main into any pipe within the water limits of such company.

50. Except as in this Act provided, nothing in this Act shall take away, abridge, or prejudicially affect any right or power which a company would have had under their special Act or the Metropolis Water Act, 1852, or under any charter or otherwise, if this Act had not been passed.

Saving for ordinary powers

51. [*Rep. by 46 & 47 Vict. c. 39. Statute Law Revision.*]

(h) Sections 42 and 46.—See note (f) on page 1332.

(i) Supply of water where outgoing tenant in arrear.—See *Sheffield Waterworks Co. v. Wilkinson*, ante, p. 1306.

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## SCHEDULE A.

| Places.                                                                                                                                                                                                                                       | Description of Metropolitan Authority.                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The City of London and the liberties thereof.                                                                                                                                                                                                 | The Mayor, Aldermen, and Commons of the City of London.                                                                                                                        |
| The Metropolis, except the City of London and the liberties thereof.                                                                                                                                                                          | The Metropolitan Board of Works.                                                                                                                                               |
| Any place within the limits of this Act not included in the above descriptions, and under the jurisdiction of commissioners, trustees, or other persons intrusted by any Local Act with powers of improving, cleansing, or paving such place. | The Commissioners, Trustees, or other persons intrusted by the Local Act with powers of improving, cleansing, or paving.                                                       |
| Any place within the limits of this Act not included in the above descriptions, and within the jurisdiction of local boards constituted in pursuance of the Public Health Act, 1848, and the Local Government Act, 1858, or one of such Acts. | The local board.                                                                                                                                                               |
| Any place or parish within the limits of this Act not within the above descriptions, and in which a rate is levied for the maintenance of the poor.                                                                                           | The vestry, select vestry, or other body of persons acting by virtue of any Act of Parliament, prescription, custom, or otherwise, as or instead of a vestry or select vestry. |

## SCHEDULES B. AND C.

[*Rep. by 46 & 47 Vict. c. 39. Statute Law Revision.*]WEST MIDDLESEX WATERWORKS ACT, 1852 (*k*).

**15 & 16 Vict. ch. clix.** An Act for enabling the Company of Proprietors of the West Middlesex Waterworks to obtain by Agreement a Supply of Water from the Thames above the Reach of the Tide, and to raise further Capital; and for other Purposes. [30th June, 1852]

[*Preamble.*]1. [*Commencement of Act.*]2. [*Short titles of company's Acts.*]

3. That "The Waterworks Clauses Act, 1847" (except the provisions with respect to the communication pipes to be laid by the undertakers, and except the section numbered 35 in the same Act), . . . shall be incorporated with this Act . . .

4. [8 &amp; 9 Vict. c. 18 incorporated with this Act.]

5. [*Same meanings to words in incorporated Acts and this Act.*]6—10. [*Capital of the company.*]

Certain parts  
of 10 & 11  
Vict. c. 17  
incorporated  
with this Act.

(*k*) **Application of Act.**—This Act applies only to the West Middlesex Waterworks Co., but, as will be seen on referring to the notes to the respective sections, almost identical provisions are contained in the special Acts of the majority of the other water companies supplying London. For a list of these companies and their special Acts, see the schedule of the London Water Act, 1892, and note thereto, *post*.



11—31. [*Power to take water from the Thames and to construct works.*]

32. [*Limits of Act for water supply.*]

33. That the company shall cause main pipes to be laid down, and pure and wholesome water to be brought to every part of the district within the limits of this Act, whenever they shall be required by so many owners or occupiers of houses in that part of the district as that the aggregate amount of water rate payable by them annually at the rates specified in this Act shall not be less than one tenth part of the expense of providing and laying down such pipes: Provided always, that no such requisition shall be binding on the company unless such owners or occupiers shall severally execute an agreement binding themselves to take such supply of water for three successive years at least: Provided also, that the company shall not be bound to provide or lay down any communication pipes for any such supply of water, except at the expense of the persons requiring the supply: Provided also, that the company shall not be bound to furnish any such supply of water, or lay down any pipe for such purpose, in any part of the district which part is for the time being supplied with water by any other company (*l*).

34. That the water to be supplied by the company need not be constantly laid on under pressure until the expiration of five years from the passing of this Act, and after the expiration of the said five years the company shall not be required to supply water under pressure to any higher level than two hundred feet above the level of high-water mark at Hammersmith Bridge, computed according to the Trinity standard (*m*).

35. That whenever water shall be constantly laid on under pressure in any district main, every person supplied with water under pressure by the company through such main shall, when required by the company, provide a proper cistern or other receptacle for the water with which he shall be so supplied, with an efficient ballcock or other like apparatus; and if any such cistern or other receptacle supplied with water under pressure shall be provided with or have any overflow spout, waste pipe, or other means or contrivance immediately connected or capable of being used therewith to carry off the water from such cistern or receptacle, such person shall be bound to give notice to the company of every such overflow spout, waste pipe, or other means or contrivance, and of the situation thereof; and whether such notice shall have been given or not, the

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Company to extend supply within the limits when a certain number of owners require it.

Constant supply to be given after the period of five years.

Cisterns to be supplied with proper ball-cocks or other apparatus.

(*l*) **Extension of supply.**—The same provisions are contained in the *New River Co.'s Act*, 1852, sec. 34; the *East London Waterworks Act*, 1853, secs. 57—60; the *Southwark and Vauxhall Water Act*, 1852, sec. 47; the *Chelsea Waterworks Act*, 1852, sec. 64; the *Grand Junction Waterworks Act*, 1852, sec. 40; and the *Kent Waterworks Act*, 1877, sec. 35. See note (*k*), *supra*.

(*m*) **Height of supply.**—The maximum heights required under pressure by the special Acts of the other water companies are as follows:—

*New River Co.'s Act*, 1852, sec. 28:—“the top of every house under the level of 300 feet above Trinity high-water mark,” and not exceeding “70 feet in height from the pavement of the street in which the house is situate.”

*East London Waterworks Act*, 1853, sec. 63:—“40 feet above the level of the pavement adjoining, and nearest to the point at which such supply is required.”

*Southwark and Vauxhall Water Act*, 1852, sec. 48:—“No “higher level than 150 feet above the level of high-water mark at Vauxhall Bridge, computed according to the Trinity standard.”

*Lambeth Waterworks Act*, 1848, sec. 35:—“Not “greater than the height of the water in the present reservoir from whence the supply is or shall be obtained will give, nor in any case to an elevation exceeding 150 feet above Trinity high-water mark.”

*Chelsea Waterworks Act*, 1852, sec. 54:—“Not “higher than the pressure of the water in the reservoir from whence the supply is to be obtained will give, provided that the level of the water in the reservoir of the company shall not be less than 140 feet above Trinity high-water mark.”

*Grand Junction Waterworks Act*, 1852, sec. 41:—“No “higher level than 150 feet above the level of high-water mark at Vauxhall Bridge, computed according to the Trinity standard.”

The *Kent Waterworks Act*, 1864, second schedule, enacts that “The water need not be constantly laid on under a pressure greater than the pressure to be afforded through the pipes of distribution from the reservoirs hereinbefore described.”

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surveyor, or any other person acting under the authority of the company, may, between the hours of nine of the clock in the forenoon and four of the clock in the afternoon, enter into any house in order to examine if there be any waste, misuse, or undue consumption of water by means of any overflow spout, waste pipe, or other means or contrivance; and in case any such waste, misuse, or undue consumption of water shall be found to exist, or shall be deemed likely to occur from the use of any such overflow spout, waste pipe, or other means or contrivance, it shall be lawful for such surveyor or other person to give notice to the person so supplied with water either to repair and amend or to remove such overflow spout, waste pipe, or other means of contrivance; and if the same shall not be forthwith repaired and amended or removed in accordance with such notice, it shall be lawful for the company immediately thereafter to turn off the water from the house, and to cease to supply the same with water (*n*).

**36.** [*Cisterns, &c. to be so constructed as to prevent waste or the flow or return of impure matter into the mains (o).*]

**37.** [*Restricting communications with pipes of the company (o).*]

**38.** [*Water may be cut off in certain cases (o).*]

Rates at which  
water is to be  
supplied for  
domestic  
purposes.

**39.** That the company shall, at the request of the owner or occupier of any house in any street within the limits of this Act in which any pipe of the company shall be laid, or of any person who, under the provisions of this Act or any Act incorporated therewith, shall be entitled to demand a supply of water for domestic purposes, furnish to such owner or occupier or other person a sufficient supply of water for their domestic purposes at the rates hereinafter specified; that is to say—

Where the annual value (*p*) of the dwelling-house or other place supplied shall not exceed two hundred pounds, at a rate per centum per annum on such value not exceeding four pounds; and where such annual value shall exceed two hundred pounds, at a rate per centum per annum on such value not exceeding three pounds:

If there be a  
watercloset.

If there be a watercloset or waterclosets, or fixed bath or baths, or any high service, in such dwelling-house or place, then, in addition to the rates above specified, the following rates shall be payable; that is to say—

Where the annual value of such house shall exceed thirty pounds but shall not exceed fifty pounds, a rate not exceeding four shillings per annum for each single watercloset, fixed bath, or high service, and a further sum of two shillings for each additional watercloset, fixed bath, or high service:

Where such annual value shall exceed fifty pounds but shall not exceed one hundred pounds, a rate not exceeding six shillings per annum for each single watercloset, fixed bath, or high service, and a further sum of three shillings for each additional watercloset, fixed bath, or high service:

Where such annual value shall exceed one hundred pounds but shall not exceed two hundred pounds, a rate not exceeding eight shillings for each single watercloset, fixed bath, or high service, and a further sum of four shillings for each additional watercloset, fixed bath, or high service:

(*n*) **Provision of cisterns and ballcocks.**—The same provisions are contained in the *New River Co.'s Act, 1852*, sec. 29; the *East London Waterworks Act, 1853*, secs. 64–67; the *Southwark and Vauxhall Water Act, 1852*, sec. 49; the *Chelsea Waterworks Act, 1852*, sec. 55; and the *Grand Junction Waterworks Act, 1852*, sec. 42. See note (*h*) *ante*, p. 1334.

See the similar provisions contained in secs. 54 and 57 of the *Waterworks Clauses Act, 1847*, *ante*. As to regulations prescribing the size and nature of pipes, cocks, cisterns, &c., see the *Metrop. Water Act, 1852*, sec. 26, and the *Metrop. Water Act, 1871*, secs. 17–25, *ante*.

(*o*) **Sections 36, 37, and 38** are identical in terms with secs. 23, 24, and 25 respectively of the *Metropolis Water Act, 1852*, *ante*.

(*p*) **Annual value.**—This means the rateable value. *Dobbs v. Grand Junction Waterworks Co.*, 9 A. C. 49; 53 L. J. Q. B. 50; *West Middlesex Waterworks Co. v. Coleman*, 14 Q. B. D. 529; 54 L. J. M. C. 70. *Water Rate Definition Act, 1885*, sec. 1, *ante*. Where excessive water rates had been charged under local Acts on the gross instead of the rateable value, and had been paid without protest, it was held that the payments were voluntary payments, and could not be recovered back. *Henderson v. Folkestone Waterworks Co.*, 1 T. L. R. 329; *Slater v. Burnley (Mayor, &c., of)*, 53 J. P. 535; 59 L. T. (N. S.) 636.

Where such annual value shall exceed two hundred pounds but shall not exceed three hundred pounds, a rate not exceeding ten shillings for each single watercloset, fixed bath, or high service, and a further sum of five shillings for each additional watercloset, fixed bath, or high service :

And where such annual value shall exceed three hundred pounds, a rate not exceeding twelve shillings for each single watercloset, fixed bath, or high service, and a further sum of six shillings for each additional watercloset, fixed bath, or high service (q).

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(q) **Water rates for domestic purposes.**—Identically the same provisions as those contained in sec. 39 are contained in the *New River Co.'s Act*, 1852, sec. 35; the *Chelsea Waterworks Act*, 1852, sec. 60; and the *Grand Junction Waterworks Act*, 1852, sec. 46.

Sec. 39 of the *New River Co.'s Act*, 1852, authorises that company to take an increased rate or charge by agreement with the person requiring a supply, "notwithstanding the same may exceed the rates or charges herein specified." And the *Grand Junction Waterworks Act*, 1856, requires that company to supply water for domestic purposes to any house in the parish of Paddington belonging to the see of the Lord Bishop of London "at rates less in the proportion of 15*l. per cent.* than the several rates specified in section 46" of their special Act of 1852.

The *East London Waterworks Act*, 1852, secs. 74 and 75, authorises that company to charge not exceeding 5*l. per cent. per annum* on the annual value, with an additional rate for every single watercloset and for every single fixed bath of not exceeding 4*s.* where the annual value exceeds 30*l.* : 6*s.* where the annual value exceeds 50*l.* but does not exceed 100*l.* ; and 8*s.* where the annual value exceeds 100*l.* Sec. 76 authorises a further charge for "high service" of not exceeding 25 per cent. per annum upon the foregoing rates respectively.

The *Southwark and Vauxhall Water Act*, 1852, sec. 53, authorises a rate of not exceeding 5*l. per cent. per annum* on the annual value, with the same additional rates for each single or additional watercloset, fixed bath, or high service as are authorised in the case of the West Middlesex Waterworks Co.

The *Lambeth Waterworks Act*, 1848, sec. 37, authorises the following rates on the annual value of houses where there is no watercloset, viz. :—7*l. 10s. per cent.* where the annual value does not exceed 20*l.* ; 7*l. per cent.* where the annual value exceeds 20*l.* but does not exceed 40*l.* ; 6*l. 10s. per cent.* where the annual value exceeds 40*l.* but does not exceed 60*l.* ; 6*l. per cent.* where the annual value exceeds 60*l.* but does not exceed 80*l.* ; 5*l. 10s. per cent.* where the annual value exceeds 80*l.* but does not exceed 100*l.* ; and 5*l. per cent.* where the annual value exceeds 100*l.* If there be a watercloset or waterclosets in such dwelling-house, then the following additional rates are payable, viz. :—Not exceeding 10*s.* for one watercloset and 5*s.* for each additional watercloset where the annual value exceeds 20*l.* but does not exceed 40*l.* ; 12*s.* for one watercloset and 6*s.* for each additional watercloset where the annual value exceeds 40*l.* but does not exceed 60*l.* ; 15*s.* for one watercloset and 7*s. 6d.* for each additional watercloset where the annual value exceeds 60*l.* but does not exceed 100*l.* ; and 20*s.* for one watercloset and 10*s.* for each additional watercloset where the annual value exceeds 100*l.*

The *Kent Waterworks Act*, 1864, sec. 28, authorises the following rates on the annual value, viz. :—

|                             |                         |                              |                                        |
|-----------------------------|-------------------------|------------------------------|----------------------------------------|
| Not exceeding 7 <i>l.</i> — | 8 <i>s.</i> 0 <i>d.</i> | Not exceeding 19 <i>l.</i> — | 22 <i>s.</i> 6 <i>d.</i>               |
| " "                         | 8 <i>l.</i> —           | " "                          | 20 <i>l.</i> —24 <i>s.</i> 0 <i>d.</i> |
| " "                         | 9 <i>l.</i> —           | " "                          | 25 <i>l.</i> —28 <i>s.</i> 0 <i>d.</i> |
| " "                         | 10 <i>l.</i> —          | " "                          | 30 <i>l.</i> —31 <i>s.</i> 0 <i>d.</i> |
| " "                         | 11 <i>l.</i> —          | " "                          | 35 <i>l.</i> —35 <i>s.</i> 0 <i>d.</i> |
| " "                         | 12 <i>l.</i> —          | " "                          | 40 <i>l.</i> —40 <i>s.</i> 0 <i>d.</i> |
| " "                         | 13 <i>l.</i> —          | " "                          | 45 <i>l.</i> —45 <i>s.</i> 0 <i>d.</i> |
| " "                         | 14 <i>l.</i> —          | " "                          | 50 <i>l.</i> —50 <i>s.</i> 0 <i>d.</i> |
| " "                         | 15 <i>l.</i> —          | " "                          | 60 <i>l.</i> —55 <i>s.</i> 0 <i>d.</i> |
| " "                         | 16 <i>l.</i> —          | " "                          | 70 <i>l.</i> —63 <i>s.</i> 0 <i>d.</i> |
| " "                         | 17 <i>l.</i> —          | " "                          | 80 <i>l.</i> —70 <i>s.</i> 0 <i>d.</i> |
| " "                         | 18 <i>l.</i> —          | " "                          | 95 <i>l.</i> —76 <i>s.</i> 0 <i>d.</i> |

Where the annual value exceeds 95*l.* the authorised maximum rate is 4*l. per cent.* per annum. The following additional maximum charges are authorised by sec. 30, viz. :—Where the annual value does not exceed 9*l.*, 5*s.* for every watercloset beyond the first and 6*s.* for every bath ; exceeding 9*l.* but not exceeding 20*l.*, 6*s.* for one watercloset beyond the first and 8*s.* for one bath ; exceeding 20*l.* but not exceeding 40*l.*, 7*s.* for one watercloset beyond the first and 10*s.* for one bath ; exceeding 40*l.* but not exceeding 60*l.*, 8*s.* for one watercloset beyond the first and 10*s.* for one bath ; exceeding 60*l.* but not exceeding 80*l.*, 8*s.* for one watercloset beyond the first and 12*s.* for one bath ; exceeding 80*l.*, 10*s.* for one watercloset beyond the first and 12*s.* for one



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“High  
service.”

As to charge  
for service at  
more than two  
hundred feet  
above Trinity  
high-water  
mark.

What are not  
domestic  
purposes.

40. That the expression “high service” in this Act shall mean and be considered as being a delivery of water at an elevation more than ten feet above the footway or pavement in front of the dwelling-house or other place so supplied (r).

41. Provided, that with respect to all service which shall be given to any dwelling-house at an elevation of more than two hundred feet above Trinity high-water mark (s) it shall be lawful for the company to charge, in addition to the rates hereinbefore authorised, a further sum not exceeding one pound per centum per annum on the annual value of such dwelling-house (t).

42. That a supply of water for domestic purposes shall not include a supply of water for steam engines or railway purposes, or for warming or ventilating purposes, or for working any machine or apparatus, for or baths (u), horses, cattle, or for washing carriages (x), or for gardens (y), fountains, or ornamental purposes, or for flushing sewers or drains, or for any trade or manufacture or business requiring an extra supply of water (z).

bath. Where the annual value exceeds 9*l.*, a further charge is authorised of 5*s.* for every additional watercloset beyond the second, and of 6*s.* for every additional bath beyond the first.

(r) **High service.**—The same provision is contained in the *Southwark and Vauxhall Water Act, 1852*, sec. 54; the *Chelsea Waterworks Act, 1852*, sec. 61; and the *Grand Junction Waterworks Act, 1852*, sec. 47. The *New River Co.'s Act, 1852*, sec. 36, defines “high service” to be “more than ten feet above the ground floor” of the place supplied. The *East London Waterworks Act, 1853*, sec. 73, defines “high service” to be “exceeding twenty feet above the level of the adjoining or nearest pavement.”

As to the liability of the owner of premises where his servants surreptitiously, and without his knowledge, fix a high service pipe, see *West Middlesex Waterworks Co. v. Suwerthrop*, 4 C. & P. 87; M. & M. 408.

(s) **Trinity high-water mark.**—This is a mark on the east side of the Hermitage entrance to the London Docks, probably fixed there in accordance with the observations as to the tides in the river Thames made by two of the elder brothers of the Trinity House under the London Docks Act, 1799 (39 & 40 Geo. 3. ch. xlviii.), sec. 55.

(t) **Charge for service more than 200 feet above Trinity high-water mark.**—The New River Co.'s Act, 1852, sec. 37, authorises the same charge for all service more than 160 feet above Trinity high-water mark.

(u) **Baths.**—Under the Lambeth Waterworks Act, 1848, sec. 39, it was held by Chitty, J., that a supply of water for a fixed bath supplied from the main through a tap in a private dwelling-house was a supply for other than domestic purposes, and that the company were entitled to make a special charge therefor. *Walker v. Lambeth Waterworks Co.*, 63 L. J. Ch. 874; 58 J. P. 736. But in an earlier case, under very similar language in the Cardiff Waterworks Act (16 & 17 Vict. ch. xxiv.), sec. 43, it was held by Field and Matthew, J.J., that a supply of water for a fixed bath supplied by a pipe leading from the service pipe was a supply for domestic purposes for which the company were not entitled to make an extra charge. *Waller v. Cardiff Mayor, &c., &c.*, 47 J. P. 599; 48 L. T. (N.S.) 906. Under the Sheffield Waterworks Acts it was held that where the connexion of a fixed bath with the water company's pipes was severed the company was not entitled to refuse to supply water for domestic purposes because the outlet pipe from the bath had not been removed. *Sheffield Waterworks Co. v. Carter*, 8 Q. B. D. 632; 51 L. J. M. C. 97. As to measuring water supplied to baths, see *Sheffield Waterworks Co. v. Bingham*, *ante*, p. 1316.

(v) **Horses, Carriages.**—But for the exception contained in the above section, water used for watering horses and washing a carriage belonging to the owner of, and kept at, a private dwelling-house, would appear to be water for domestic use. *Bushy v. Chesterfield Waterworks Co.*, E. B. & B. 176; 27 L. J. M. C. 174.

(y) **Gardens.**—As to the water rate and extra charge where a pleasure garden is attached to and occupied with a dwelling-house, see *Bristol Waterworks Co. v. Uren*, 15 Q. B. D. 637; 54 L. J. M. C. 97.

(z) **What are not domestic purposes.**—The same provision is contained in the *New River Co.'s Act, 1852*, sec. 38; the *Southwark and Vauxhall Water Act, 1852*, sec. 55; the *Chelsea Waterworks Act, 1852*, sec. 62; and the *Grand Junction Waterworks Act, 1852*, sec. 48.

By omitting the word “bath,” and adding at the end of the section the words “or, as regards any house of which the annual value does not exceed 30*l.*, a supply of water for baths,” the present section would be identical with section 72 of the *East London Waterworks Act, 1853*.

The *Lambeth Waterworks Act, 1848*, sec. 39, enacts that a supply for domestic

43. That the company may, at their own instance, and shall at the request of any owner or occupier of any premises situate in or adjoining any street in which any main or service pipe of the company shall be laid, and who requires a supply of water by measure for purposes other than the purposes in respect of which rates are by this Act provided or limited, and by means of communication pipes and other necessary and proper apparatus to be provided, laid, and maintained at the cost of the person requiring such supply, afford a supply of water by meter, or other fit and sufficient instrument or mode for measuring and ascertaining the quantity of water so supplied, and may charge for such supply not exceeding the following rates for each one thousand gallons; that is to say—

In respect of ordinary service:

When the quarterly consumption of water does not exceed fifty thousand gallons, ninepence:

When exceeding fifty thousand gallons and not exceeding one hundred thousand gallons, eightpence:

When exceeding one hundred thousand gallons and not exceeding two hundred thousand gallons, sevenpence:

When exceeding two hundred thousand gallons, sixpence:

And in respect of high service:

An additional rate not exceeding twenty-five per centum upon the several rates last hereinbefore specified and authorised for ordinary service:

Provided that the company shall not be required so to supply water in any less quantity than twenty-five thousand gallons in any quarter of a year (a).

15 & 16 Vict.  
ch. clix.  
Company may  
charge by  
quantity in  
certain cases.

purposes shall not include a supply for "baths, horses, cattle, or for washing carriages or for any trade or business whatsoever."

The *Kent Waterworks Act*, 1864, sec. 29, enacts that a supply for domestic purposes does not include a supply for "more than one watercloset, or for any bath, for cattle or horses, or for washing carriages, if the horses or carriages are kept for hire or by common carriers, or are the property of a dealer, or for steam engines, or for railway purposes, or for warming or ventilating purposes, or for working any machine or apparatus, or for any trade, manufacture, or business whatsoever, or for watering gardens by means of any tap, tube, pipe, or other like apparatus, or for fountains, or for flushing sewers or drains, or for public baths, or for any ornamental purpose whatsoever."

See also sec. 12 of the *Waterworks Clauses Act*, 1863, and note thereto, *ante*.

Under the special provisions of a local Act (23 Vict. ch. xiii.), secs. 33 and 36, it was held that a supply of water to a workhouse was a supply for "domestic" and not for "public" purposes. *Liskeard Union v. Liskeard Waterworks Co.*, 7 Q. B. D. 505; 45 J. P. 780.

(a) **Charge by quantity.**—Identically the same provisions are contained in the *East London Waterworks Act*, 1853, sec. 79; the *Southwark and Vauxhall Water Act*, 1852, sec. 57; and the *Grand Junction Waterworks Act*, 1852, sec. 50.

The *New River Co.'s Act*, 1852, sec. 41, requires the company, at the request of "any consumer of water," to supply water for purposes other than purposes for which charges are provided by sec. 35 of that Act (see note to sec. 39, *supra*) at not exceeding 7½d. per one thousand gallons when the quarterly consumption does not exceed 50,000 gals.; 7d. when exceeding 50,000 gals. and not exceeding 100,000 gals.; 6½d. when exceeding 100,000 gals. and not exceeding 200,000 gals.; and 6d. when exceeding 200,000 gals.; and a further rate not exceeding twenty-five per cent. in respect of water so supplied more than 60 feet above Trinity high-water mark. There is no minimum limit to the quantity which the company may be required to supply. "Consumer" in that section means a person who is actually consuming water, or who at least is entitled to demand a supply for his consumption. *Cooke v. New River Co.*, 14 App. Cas. 698; 59 L. J. Ch. 333. In the court below, in the same case, it was held that the occupiers of a warehouse requiring a supply of water for domestic purposes, and also for other purposes, are not entitled to require the water for domestic purposes to be supplied by meter. *Ib.*, 38 Ch. D. 56; 57 L. J. Ch. 333. It was held that the company were not bound to supply the Met. Bd. Wks. with water for watering roads and gardens at the limited rates fixed by this section, but that they are entitled to claim rates for such supply to be fixed by agreement or settlement under sec. 37 of the *Waterworks Clauses Act*, 1847, *ante*. *Metropolitan Bd. Wks. v. New River Co.*, 37 L. T. (N. S.) 124.

An agreement to supply water by meter to a block of model dwelling-houses at a higher rate than that fixed by the Act was held to be valid. *Southwark and Vauxhall Waterworks Co. v. Dickenson*, 5 T. L. R. 251.

15 & 16 Vict.  
ch. clix.

Water for  
other than  
domestic  
purposes to  
be supplied by  
agreement.  
Owners of  
houses not  
exceeding 20l.  
annual value  
to be liable to  
water rates.

Saving rights  
under  
company's  
Acts.

Company to  
be subject to  
the provisions  
of any general  
Act.

44. That it shall be lawful for the company to supply any person or body within the limits of this Act with water, to be used within the limits aforesaid, for other than domestic purposes, at such rate and upon such terms and conditions as shall be agreed upon between the company and the person or body desirous of having such supply of water (b).

45. That the owners of all houses or parts of houses occupied as separate tenements, not respectively exceeding the annual value of twenty pounds, shall, during such time as the same shall be supplied with water by the company, be liable to the payment of the rates chargeable in respect thereof under the authority of this Act, instead of the occupiers thereof; and the person receiving the rents of any such house or tenement from the occupier thereof, on his own account, or as agent or receiver for any person interested therein, shall be deemed the owner of such house or tenement (c).

46. [Saving rights of Commissioners of Sewers.]

47. [Works under control of Metropolitan Commissioners of Sewers not to be interfered with without consent.]

48. That, except as by this Act expressly provided, this Act or anything therein contained shall not repeal, alter, interpret, or in any manner affect any of the provisions in force at the commencement of this Act of the recited Acts or any of them; and, except only so far as is requisite for the execution of this Act, all those provisions, and all powers, privileges, exemptions, and immunities of or for the benefit of any person or corporation thereby respectively created, conferred, or saved, shall be and continue as valid and effectual as if this Act had not passed (d).

49. [Saving rights of the Crown.]

50. That nothing herein contained shall be construed to exempt the company from the provisions of any general Act relating to the supply of water to the Metropolis or the suburbs thereof now in force, or which may pass during the present session of Parliament (e).

(b) **Rates by agreement.**—The same provision is contained in the *New River Co.'s Act*, 1852, sec. 40; the *East London Waterworks Act*, 1853, sec. 78; the *Southwark and Vauxhall Water Act*, 1852, sec. 56; the *Chelsea Waterworks Act*, 1852, sec. 63; and the *Grand Junction Waterworks Act*, 1852, sec. 49. Contracts for the supply of water need not be stamped, being contracts for the sale of goods, wares, or merchandise within the meaning of the Stamp Act. *West Middlesex Waterworks Co. v. Suwerdrop*, 4 C. & P. 87; M. & M. 408. See also *Church v. Gaslight and Coke Co.*, ante, p. 906.

(c) **Houses not exceeding £20.**—The same provision is contained in the *East London Waterworks Act*, 1853, sec. 81; the *Southwark and Vauxhall Water Act*, 1852, sec. 58; the *Grand Junction Waterworks Act*, 1852, sec. 51; and the *Kent Waterworks Act*, 1864, sec. 31. See also sec. 72 of the *Waterworks Clauses Act*, 1847, ante. Where a house becomes unoccupied the owner's liability for the water rate ceases on the quarter day next thereafter, notwithstanding that no notice to discontinue the supply may have been given. *British Empire Mutual Life Assurance Co. v. Southwark and Vauxhall Water Co.*, 59 L. T. (N. S.) 321; 52 J. P. 758. See also *East London Waterworks Co. v. Foulkes*, ante, p. 1311.

(d) **Saving company's rights.**—Very similar savings are contained in the *New River Co.'s Act*, 1852, sec. 75; the *Grand Junction Waterworks Act*, 1852, sec. 57; and the *Kent Waterworks Act*, 1864, sec. 49. See *Richards v. West Middlesex Waterworks Co.*, ante, p. 1312.

(e) **Saving general Act.**—The same provision is contained in the *New River Co.'s Act*, 1852, sec. 73; the *Southwark and Vauxhall Water Act*, 1852, sec. 83; the *Chelsea Waterworks Act*, 1852, sec. 86; and the *Grand Junction Waterworks Act*, 1852, sec. 61. In all the later special Acts of all the London water companies it is usual to provide that nothing therein contained "shall exempt the company from the provisions of the Metropolis Water Acts, 1852 and 1871, ante, or any other general Act relating to the supply of water to the Metropolis or the suburbs thereof now in force, or which may hereafter pass during this or any future session of Parliament."



## LONDON WATER ACT, 1892.

**55 & 56 Vict. ch. cxxx.** An Act with respect to the Supply of Water in London and the neighbourhood.  
[27th June, 1892]

1. This Act may be cited as the London Water Act, 1892.

Short title.

2. The London County Council shall have power from time to time to pay the costs and expenses of promoting bills in Parliament relating to the supply of water in the administrative county of London and within the limits of supply of the metropolitan water companies:

Powers for introduction of bills in Parliament.

“The metropolitan water companies” mean and include the several companies mentioned in the schedule to this Act.

3. The London County Council shall have power to make inquiries as to the existing supply of water within the metropolitan water area and the charges made for the same, and as to the possible sources of supply, and may from time to time pay the costs and expenses of such inquiries, and of any costs incurred by them in inquiries before royal commissions or otherwise to an extent not exceeding ten thousand pounds in addition to the sum which the council were authorised to pay for similar purposes by section 38 of the London Council (General Powers) Act, 1890 (*f*):

Powers to make inquiries.

“The metropolitan water area” means the whole of the area within which any of the metropolitan water companies have powers of supply.

4. All costs and expenses of the London County Council in the execution of this Act (except so far as they may be otherwise provided for by this or any other Act) shall be defrayed as payments for general county purposes within the meaning of the Local Government Act, 1888 . . .

Payments under this Act.

SCHEDULE referred to in the foregoing Act (*g*).

The Governor and Company of the New River brought from Chadwell and Amwell to London:

The East London Waterworks Company:

(*f*) **The London Council (Gen. Powers) Act, 1890** (53 & 54 Vict. ch. ccxliii.), sec. 38, authorised the “Council from time to time to prosecute and conduct inquiries and negotiations relative to the supply of water or companies supplying water in or near the administrative county of London, and to pay out of the county fund the costs and expenses of such inquiries not exceeding five thousand pounds. Provided that if the council intend that any such inquiry should be open to the public they shall give notice of the time and place thereof by advertisement published once in each of two successive weeks in two London daily newspapers.”

(*g*) **London water companies.**—This schedule includes the whole of the companies supplying London with water. The following are the special Acts of those companies, viz.:

*New River Co.'s Acts*, 1852 (15 & 16 Vict. ch. clx.), 1854 (17 Vict. ch. xxxix. and 17 Vict. ch. lxxii.); *River Lee Water Act*, 1855 (18 & 19 Vict. ch. cxvii.), and *New River Co.'s Acts*, 1857 (20 & 21 Vict. ch. xliii.), 1866 (29 & 30 Vict. ch. cxxx.), 1879 (42 Vict. ch. x.), and 1896 (59 & 60 Vict. ch. ccxxix.).

*East London Waterworks Acts*, 1853 (16 & 17 Vict. ch. clxvi.), 1854 (17 Vict. ch. lxxv.); *River Lee Water Act*, 1855 (18 & 19 Vict. ch. cxvii.); and *East London Waterworks Acts*, 1862 (25 & 26 Vict. ch. xxii.), 1867 (30 & 31 Vict. ch. cxlviii. and 30 & 31 Vict. ch. cxlix.), 1881 (44 & 45 Vict. ch. clx.), 1886 (49 & 50 Vict. ch. lxxxii.), and 1894 (57 & 58 Vict. ch. clxii.).

*Southwark and Vauxhall Water Acts*, 1852 (15 & 16 Vict. ch. clviii.), 1855 (18 & 19 Vict. ch. xxiv.), 1864 (27 & 28 Vict. ch. viii.), 1867 (30 & 31 Vict. ch. v.), 1872 (35 & 36 Vict. ch. iii.), 1884 (47 & 48 Vict. ch. cci.), 1886 (49 & 50 Vict. ch. lxxxv.), 1891 (54 & 55 Vict. ch. cxviii.), 1894 (57 & 58 Vict. ch. clxiv.).

*West Middlesex Waterworks Acts*, 1806 (46 Geo. 3, ch. cxix.), 1810 (50 Geo. 3, ch. cxxxii.), 1813 (53 Geo. 3, ch. xxxvi.), 1852 (15 & 16 Vict. ch. clix.), 1860 (23 Vict. ch. i.), 1866 (29 Vict. ch. vi.), 1869 (32 Vict. ch. i.), 1894 (57 & 58 Vict. ch. clxv.).

*Lambeth Waterworks Acts*, 1848 (11 Vict. ch. vii.), 1856 (19 Vict. ch. x.), 1869 (32 & 33 Vict. ch. iv.), 1871 (34 & 35 Vict. ch. lxxxiii.), 1883 (46 & 47 Vict. ch. xxviii.), 1886 (49 & 50 Vict. ch. lxxi.), 1896 (59 & 60 Vict. ch. liv.).

*Chelsea Waterworks Acts*, 1852 (15 & 16 Vict. ch. clvi.), 1864 (27 & 28 Vict.

55 & 56 Vict.  
ch. cxxx.

The Southwark and Vauxhall Water Company :  
The Company of Proprietors of the West Middlesex Waterworks :  
The Company of Proprietors of Lambeth Waterworks :  
The Governor and Company of Chelsea Waterworks :  
The Grand Junction Waterworks Company :  
The Company of Proprietors of the Kent Waterworks.

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ch. xxxix.), 1875 (38 & 39 Vict. ch. cviii.), 1887 (50 & 51 Vict. ch. xciv.), and 1896 (59 & 60 Vict. ch. lxxiii.).

*Grand Junction Waterworks Acts*, 1811 (51 Geo. 3, ch. clxix.), 1816 (56 Geo. 3, ch. iv.), 1819 (59 Geo. 3, ch. cxi.), 1826 (7 Geo. 4, ch. cxl.), 1835 (5 & 6 Will. 4, ch. xciv.), 1844 (7 & 8 Vict. ch. 30), 1852 (15 & 16 Vict. ch. clvii.), 1855 (18 Vict. ch. xxi.), 1856 (19 & 20 Vict. ch. cxvi.), 1861 (24 & 25 Vict. ch. cli.), 1868 (31 Vict. ch. v.), 1873 (36 Vict. ch. xlv.), 1878 (41 & 42 Vict. ch. cxxxiv.), and 1879 (42 Vict. ch. vi.).

*Kent Waterworks Acts*, 1809 (49 Geo. 3, ch. clxxxix.), 1811 (51 Geo. 3, ch. cxlv.), 1850 (13 & 14 Vict. ch. lix.), 1862 (25 & 26 Vict. ch. xlv.), 1864 (27 & 28 Vict. ch. cxlvi.) ; Dartford Water Act, 1868 (31 & 32 Vict. ch. cxix.) ; and Kent Waterworks Acts, 1877 (40 & 41 Vict. ch. cxxvii.) and 1888 (51 & 52 Vict. ch. vi.).

## METROPOLIS WATER ACT, 1897 (a).

60 & 61 Vict. c. 56. An Act to amend the Law respecting the Metropolitan Water Companies. [6th August, 1897]

1.—(1) Any water consumer or any local authority may complain to the Railway and Canal Commission that any of the metropolitan water companies has failed to perform some statutory duty of the company, and the Commission may hear and determine that complaint, and if satisfied of such failure order the company within the time limited by the order to fulfil the duty, and may, if they think fit, by any such order, impose any penalty for such failure which can be imposed under any Act (b), and enforce any such order in like manner as any other order of the Commission.

Complaint may be made to Railway and Canal Commission.

(2) If at any time complaint as to the quantity or quality of the water supplied by any of the metropolitan water companies for domestic use (c) is made to the Railway and Canal Commission, by any water consumer or local authority, the Commission may hear and determine such complaint, and if satisfied that the complaint is well founded, may order the company, within such reasonable time as is specified in the order, to remove the ground of such complaint, and may enforce such order in like manner as any other order of the Commission, and may award damages to the complainant.

(3) All enactments relating to the Railway and Canal Commission (except section two of the Railway and Canal Traffic Act, 1894, which restricts the power to award costs) shall, with the necessary modifications, apply to the Railway and Canal Commission for the purpose of their jurisdiction under this Act (d).

57 & 58 Vict. c. 54.

(4) This Act shall be in addition to and not in substitution for any existing proceedings or remedy.

2. A local authority may aid any water consumer in obtaining the determination of any question which appears to the local authority to be of interest to water consumers within the district of such local authority with

Power of local authorities to aid water consumers.

(a) **Metropolis Water Act, 1897.**—This Act was passed subsequent to the publication of "London Local Government," and pp. 1342a and 1342b are therefore printed for insertion immediately after p. 1342.

(b) **Statutory duty. Penalty.**—For the statutory duties of the metropolitan water companies, and the penalties which may be imposed for failure to perform them, see pp. 1299 to 1340, *ante*.

(c) **Domestic use.**—See sec. 42 of the West Middlesex Waterworks Act, 1852, and notes thereto, *ante*, p. 1338.

(d) **Railway and Canal Commission.**—The present Commission is established under the Railway and Canal Traffic Act, 1888 (51 & 52 Vict. c. 25), *ante*, p. 1153, and in England consists of one judge of the Supreme Court appointed by the Lord Chancellor, and two commissioners appointed by the Crown. The other material enactments relating to the Commission are the Railway and Canal Traffic Act, 1854 (17 & 18 Vict. c. 31), sec. 3; the Regulation of Railways Act, 1873 (36 & 37 Vict. c. 48); the Railway Regulation Act, 1893 (56 & 57 Vict. c. 29); and the Railway and Canal Traffic Act, 1894, sec. 2 of which is set out *ante*, p. 1155 (f).

Proceedings before the Commission are commenced by a written or printed application, signed by the applicant or his solicitor, in the form prescribed by the Railway and Canal Commission Rules, 1889. The Commissioners have full jurisdiction to hear and determine all matters whether of law or of fact, and may review, rescind, or vary any order made by them. Railway and Canal Traffic Act, 1888, sec. 18. An appeal lies from them to a superior court of appeal, except upon questions of fact or upon questions relating to the *locus standi* of a complainant, *ib.*, sec. 17. The costs are in the discretion of the Commissioners, *ib.*, sec. 19. As respects the enforcement of their orders the Commissioners have all such powers, rights, and privileges as are vested in a superior court, *ib.*, sec. 18 (1). Any decision or order of the Commissioners may be made a rule or order of a superior court, and may be enforced either by the attachment of one or more directors of the company, or by a pecuniary penalty not exceeding £200 a day, or in like manner as any rule or order of such court. Railway and Canal Traffic Act, 1854, sec. 3; Regulation of Railways Act, 1873, sec. 26. For full information as to the procedure before the Commission, see Butterworth's "Practice of the Railway and Canal Commission."



60 & 61 Vict.  
c. 56.

respect to the rights, duties, and liabilities of any of the metropolitan water companies in reference to the quantity or quality of water supplied or the charges made by them (e). A local authority aiding any legal proceedings under this section may, if the court think fit, be made a party to the proceedings, and shall be liable for costs accordingly.

Extension to  
whole water  
area, and  
adaptation of  
Metropolis  
Water Acts.  
15 & 16 Vict.  
c. 84.  
34 & 35 Vict.  
c. 113.

3. The Metropolis Water Act, 1852, and the Metropolis Water Act, 1871, (f), shall, as respects the metropolitan water companies, extend to the whole of the area within which any of the companies is for the time being authorised to supply water, and for the purpose of the said Acts as so extended reference to that area shall be substituted for references to "the metropolis" and "the limits of this Act," and as respects any area outside the administrative county of London a reference to the council of a county or county borough shall be substituted for a reference to the metropolitan authority, and so much of the said Acts or of any local Act as is inconsistent with such substitution shall be and is hereby repealed.

Return of  
proceedings  
taken.

4. The Railway Commissioners shall include in their annual report a return of all proceedings taken before them under this Act.

Definitions.  
34 & 35 Vict.  
c. 113.

5. In this Act, unless the context otherwise requires,—

The expression "metropolitan water companies" means the water companies specified in section three of the Metropolis Water Act, 1871, (f), namely: the New River Company, the East London Waterworks Company, the Southwark and Vauxhall Water Company, the Company of Proprietors of the West Middlesex Waterworks, the Company of Proprietors of Lambeth Waterworks, the Governor and Company of Chelsea Waterworks, the Grand Junction Waterworks Company, and the Company of Proprietors of the Kent Waterworks:

The expression "water consumer" means any person who is supplied with water by any of the metropolitan water companies, or who pays or is liable to pay any money charged by any of those companies for or in respect of the supply of water, whether under the name of rent, rate, or otherwise (g), and includes any householder or owner or occupier of a house entitled to make a communication with the mains or pipes of any of those companies (h): Provided that nothing in this Act shall affect the terms of any agreement existing at the time of the passing of this Act between a water company and a water consumer as to the supply of water:

The expression "local authority" means the council of any county, borough, or district, the mayor, aldermen, and commonalty of the city of London, and any vestry, district board, or local board of health in the county of London.

Short title and  
commence-  
ment.

6.—(1) This Act may be cited as the Metropolis Water Act, 1897.

(2) This Act shall come into operation on the first day of September next after the passing thereof.

(e) *Local authority may aid water consumer.*—The power conferred by sec. 2, *supra*, is not limited to proceedings before the Railway and Canal Commission, and overrides the decision in *Att.-Gen. v. Camberwell Vestry*, *ante*, Vol. I., p. 193.

(f) *Metropolis Water Acts, 1852 and 1871.*—*Ante*, pp. 1320 to 1334.

(g) *Persons liable to pay water rate.*—See the Waterworks Clauses Act, 1847, secs. 68 to 73, *ante*, p. 1310, and the West Middlesex Waterworks Act, 1852, sec. 45, *ante*, p. 1340.

(h) *Persons entitled to make communications with water mains.*—See the Waterworks Clauses Act, 1847, secs. 48 to 53, *ante*, p. 1307.

## WEIGHTS AND MEASURES.

|                                                                         |                      |
|-------------------------------------------------------------------------|----------------------|
| 41 & 42 Vict. c. 49 ("Weights and Measures Act, 1878") .....            | page 1343            |
| 52 & 53 Vict. c. 21 ("Weights and Measures Act, 1889") .....            | 1361                 |
| 55 & 56 Vict. c. 18 ("Weights and Measures (Purchase) Act, 1892") ..... | 1372                 |
| 1 & 2 Will. 4, ch. lxxvi. ("Sale of Coal") .....                        | <i>note</i> (s) 1364 |
| 1 & 2 Will. 4, ch. ci. ("Sale of Coal") .....                           | <i>note</i> (s) 1364 |
| 14 & 15 Vict. ch. cxlvi. ("Sale of Coal") .....                         | <i>note</i> (s) 1364 |
| 3 Geo. 4, ch. cvi. ("Sale of Bread") .....                              | <i>note</i> (i) 1370 |
| 6 & 7 Will. 4, c. 37 ("Sale of Bread Act, 1836") .....                  | <i>note</i> (i) 1370 |

## WEIGHTS AND MEASURES ACT, 1878 (a).

41 & 42 Vict. c. 49. An Act to consolidate the Law relating to Weights and Measures. [8th August, 1878]

*Preliminary.*

- |                                                                   |              |
|-------------------------------------------------------------------|--------------|
| 1. This Act may be cited as the Weights and Measures Act, 1878.   | Short title. |
| 2. [ <i>Rep. 57 &amp; 58 Vict. c. 56. Statute Law Revision.</i> ] |              |

## I.—LAW OF WEIGHTS AND MEASURES.

*Uniformity of Weights and Measures.*

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|-------------------------------------------------------------------------------|-------------------------------------|
| 3. The same weights and measures shall be used throughout the United Kingdom. | Uniformity of weights and measures. |
|-------------------------------------------------------------------------------|-------------------------------------|

*Standards of Measure and Weight.*

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|
| 4. The bronze bar and the platinum weight, more particularly described in the first part of the first schedule to this Act, and at the passing of this Act deposited in the standards department of the Board of Trade in the custody of the warden of the standards, shall continue to be the imperial standards of measure and weight, and the said bronze bar shall continue to be the imperial standard for determining the imperial standard yard for the United Kingdom, and the said platinum weight shall continue to be the imperial standard for determining the imperial standard pound for the United Kingdom. | Imperial standards of measure and weight.   |
| 5. The four copies of the imperial standards of measure and weight described in the second part of the first schedule to this Act, and deposited as therein mentioned, shall be deemed to be parliamentary copies of the said imperial standards.                                                                                                                                                                                                                                                                                                                                                                          | Parliamentary copies of imperial standards. |

The Board of Trade shall cause an accurate copy of the imperial standard of measure and an accurate copy of the imperial standard of weight to be made of the same form and material as the said standards, and it shall be lawful for Her Majesty in Council, on the representation of the Board of Trade, to approve the copies so made, and the copies when so approved shall be of the same effect as the said parliamentary copies, and are in this Act included under the name parliamentary copies of the imperial standards of measure and weight.

6. [*Restoration of imperial standards by Board of Trade (a).*]

7. [*Restoration of parliamentary copies by Board of Trade (a).*]

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| 8. The secondary standards of measure and weight which, having been derived from the imperial standards, are at the commencement of this Act in use under the direction of the Board of Trade, and are mentioned in the second schedule to this Act, and no others (save as hereinafter mentioned), shall be secondary standards of measure and weight, and shall be called Board of Trade standards. | Secondary (Board of Trade) standards of measure and weight |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|

(a) **Weights and Measures Act, 1878.**—Such sections of this Act as are merely summarised do not affect the local authorities.

41 & 42 Vict.  
c. 49.

If at any time any of such standards is lost or in any manner destroyed, defaced, or otherwise injured, the Board of Trade may cause the same to be restored by reference either to one of the imperial standards or to one of the parliamentary copies of those standards.

The Board of Trade shall from time to time cause such new denominations of standards, being either equivalent to or multiples or aliquot parts of the imperial weights and measures ascertained by this Act, or being equivalent to or multiples of each coin of the realm for the time being, as appear to them to be required, in addition to those mentioned in the second schedule to this Act, to be made and duly verified, and those new denominations of standards when approved by Her Majesty in Council shall be Board of Trade standards in like manner as if they were mentioned in the said schedule.

It shall be lawful for Her Majesty by order in council to declare that a Board of Trade standard for the time being of any denomination, whether mentioned in the said schedule or approved by order in council, shall cease to be such a standard.

Such standards of the Board of Trade as are equivalent to or multiples of any coin of the realm for the time being shall be standard weights for determining the justness of the weight of and for weighing such coin.

Local standards  
of measure  
and weight.

9. The standards of measure and weight which are at the commencement of this Act legally in use by inspectors of weights and measures for the purpose of verification or inspection, and all copies of the Board of Trade standards which after the commencement of this Act are compared with those standards and verified by the Board of Trade for the purpose of being used by inspectors of weights and measures under this Act as standards for the verification or inspection of weights and measures, shall be called local standards.

#### *Imperial Measures of Length.*

Imperial  
standard yard.

10. The straight line or distance between the centres of the two gold plugs or pins (as mentioned in the first schedule to this Act) in the bronze bar by this Act declared to be the imperial standard for determining the imperial standard yard measured when the bar is at the temperature of sixty-two degrees of Fahrenheit's thermometer, and when it is supported on bronze rollers placed under it in such manner as best to avoid flexure of the bar, and to facilitate its free expansion and contraction from variations of temperature, shall be the legal standard measure of length, and shall be called the imperial standard yard, and shall be the only unit or standard measure of extension from which all other measures of extension, whether linear, superficial, or solid, shall be ascertained.

Linear  
measures  
derived from  
imperial  
standard yard.

11. One third part of the imperial standard yard shall be a foot, and the twelfth part of such foot shall be an inch, and the rod, pole, or perch in length shall contain five such yards and a half, and the chain shall contain twenty-two such yards, the furlong two hundred and twenty such yards, and the mile one thousand seven hundred and sixty such yards.

Superficial  
measures  
derived from  
the imperial  
standard yard.

12. The rood of land shall contain one thousand two hundred and ten square yards, according to the imperial standard yard, and the acre of land shall contain four thousand eight hundred and forty such square yards, being one hundred and sixty square rods, poles, or perches.

#### *Imperial Measures of Weight and Capacity.*

Imperial  
standard  
pound.

13. The weight in vacuo of the platinum weight (mentioned in the first schedule to this Act), and by this Act declared to be the imperial standard for determining the imperial standard pound, shall be the legal standard measure of weight, and of measure having reference to weight, and shall be called the imperial standard pound, and shall be the only unit or standard measure of weight from which all other weights and all measures having reference to weight shall be ascertained.

Imperial  
weights  
derived from  
imperial  
standard  
pound.

14. One sixteenth part of the imperial standard pound shall be an ounce, and one sixteenth part of such ounce shall be a dram, and one seven thousandth part of the imperial standard pound shall be a grain.

A stone shall consist of fourteen imperial standard pounds, and a hundred-weight shall consist of eight such stones, and a ton shall consist of twenty such hundredweights.



Four hundred and eighty grains shall be an ounce troy.

All the foregoing weights except the ounce troy shall be deemed to be avoirdupois weights.

41 & 42 Vict.  
c. 49.

15. The unit or standard measure of capacity from which all other measures of capacity, as well for liquids as for dry goods, shall be derived, shall be the gallon containing ten imperial standard pounds weight of distilled water weighed in air against brass weights, with the water and the air at the temperature of sixty-two degrees of Fahrenheit's thermometer, and with the barometer at thirty inches.

Imperial  
measures of  
capacity.

The quart shall be one fourth part of the gallon, and the pint shall be one eighth part of the gallon.

Two gallons shall be a peck, and eight gallons shall be a bushel, and eight such bushels shall be a quarter, and thirty-six such bushels shall be a chaldron.

16. [*Rep. Weights and Measures Act, 1889, secs. 5 and 36, post.*]

17. In using an imperial measure of capacity, the same shall not be heaped, but either shall be stricken with a round stick or roller, straight and of the same diameter from end to end, or if the article sold cannot from its size or shape be conveniently stricken shall be filled in all parts as nearly to the level of the brim as the size and shape of the article will admit.

Measure of  
capacity when  
used to be  
stricken or  
filled up.

*Metric Equivalents of Imperial Weights and Measures.*

18. The table in the third schedule to this Act shall be deemed to set forth the equivalents of imperial weights and measures and of the weights and measures therein expressed in terms of the metric system, and such table may be lawfully used for computing and expressing, in weights and measures, weights and measures of the metric system.

Equivalents  
of metric  
weights and  
measures in  
terms of  
imperial  
weights and  
measures.

*Use of Imperial Weights and Measures.*

19. Every contract, bargain, sale, or dealing, made or had in the United Kingdom for any work, goods, wares, or merchandise, or other thing which has been or is to be done, sold, delivered, carried, or agreed for by weight or measure, shall be deemed to be made and had according to one of the imperial weights or measures ascertained by this Act, or to some multiple or part thereof, and if not so made or had shall be void; and all tolls and duties charged or collected according to weight or measure shall be charged and collected according to one of the imperial weights or measures ascertained by this Act, or to some multiple or part thereof.

Trade con-  
tracts, sales,  
dealings, &c.  
to be in terms  
of imperial  
weights or  
measures.

Such contract, bargain, sale, dealing, and collection of tolls and duties as is in this section mentioned is in this Act referred to under the term "trade."

No local or customary measures, nor the use of the heaped measure, shall be lawful.

Any person who sells by any denomination of weight or measure other than one of the imperial weights or measures, or some multiple or part thereof, shall be liable to a fine not exceeding forty shillings for every such sale.

20. All articles sold by weight shall be sold by avoirdupois weight; except that—

Sale by  
avoirdupois  
weight, with  
exceptions.

(1) Gold and silver, and articles made thereof, including gold and silver thread, lace, or fringe, also platinum, diamonds, and other precious metals or stones, may be sold by the ounce troy or by any decimal parts of such ounce; and all contracts, bargains, sales, and dealings in relation thereto shall be deemed to be made and had by such weight, and when so made or had shall be valid; and

(2) Drugs, when sold by retail, may be sold by apothecaries' weight.

Every person who acts in contravention of this section shall be liable to a fine not exceeding five pounds.

21. A contract or dealing shall not be invalid or open to objection on the ground that the weights or measures expressed or referred to therein are weights or measures of the metric system, or on the ground that decimal subdivisions of imperial weights and measures, whether metric or otherwise, are used in such contract or dealing.

Exception  
contract, &c.  
in metric  
weights and  
measures.

41 & 42 Vict.  
c. 49.

Exception for  
sale of article  
in vessel not  
represented  
as being of  
imperial  
or local  
measure.

Penalty on  
price lists, &c.  
denoting  
greater or  
less weight  
or measure  
than the same  
denomination  
of imperial  
weight or  
measure.  
Penalty on  
use or  
possession of  
unauthorised  
weight or  
measure.

Penalty on  
use or  
possession  
of unjust  
measures,  
weights,  
balances, or  
weighing  
machines.

**22.** Nothing in this Act shall prevent the sale, or subject a person to a fine under this Act for the sale, of an article in any vessel, where such vessel is not represented as containing any amount of imperial measure, nor subject a person to a fine under this Act for the possession of a vessel where it is shown that such vessel is not used nor intended for use as a measure.

**23.** Any person who prints, and any clerk of a market or other person who makes, any return, price list, price current, or any journal or other paper containing price list or price current, in which the denomination of weights and measures quoted or referred to denotes or implies a greater or less weight or measure than is denoted or implied by the same denomination of the imperial weights and measures under this Act, shall be liable to a fine not exceeding ten shillings for every copy of every such return, price list, price current, journal, or other paper which he publishes.

**24.** Every person who uses or has in his possession for use for trade a weight or measure which is not of the denomination of some Board of Trade standard (*c*), shall be liable to a fine not exceeding five pounds, or in the case of a second offence ten pounds, and the weight or measure shall be liable to be forfeited.

#### *Unjust Weights and Measures.*

**25.** Every person (*d*) who uses or has in his possession (*e*) for use for trade (*f*) any weight, measure (*g*), scale, balance, steelyard, or weighing machine (*h*) which is false or unjust (*i*), shall be liable to a fine not exceeding five pounds,

(*c*) **Denomination of Bd. of Trade standard.**—A duly stamped measure of one third of a gill is a measure of the denomination of a Bd. of Trade standard, viz., one gill. *Bellamy v. Pow.* 60 J. P. 712.

(*d*) **Every person.**—Where the master of a post office, who was also a baker, was charged with having in his possession an unjust scale, which in fact belonged to the post office and was the property of the Crown, it was held that he could not be convicted, as the Act does not apply to scales which are the property of the Crown. *Reg. v. Kent JJ.*, 24 Q. B. D. 181; 59 L. J. M. C. 51.

(*e*) **In his possession.**—See *Smith v. Webb*, post, p. 1350.

(*f*) **For use for trade.**—A machine which gave light weight, and weights which were light, were used in a metropolitan police station for weighing the coals allowed to constables. *Held*, that the machine and weights were not used for “buying and selling” within the repealed 5 & 6 Will. 4, c. 63, sec. 21. *Wray v. Reynolds*, 1 E. & E. 165; 7 W. R. 86. But, under the same section, where a relieving officer checked the bread supplied to the guardians with a weight which was light and unstamped it was held that he was liable to be convicted. *Painter v. Seers*, 40 J. P. 549. See also *Crick v. Theobald*, post, p. 1362.

(*g*) **Measure.**—Churns fitted with gauges to indicate the number of gallons they contain, and used for the transport of milk, are measures for use for trade within the section. *Harris v. London Counc.* (1895), 1 Q. B. 240; 64 L. J. M. C. 81.

(*h*) **Weighing machine.**—This expression includes every weighing instrument as defined by sec. 35 of the Weights and Measures Act, 1889, post.

A weighbridge at a railway station, which was liable to variation from atmospheric and other causes, required to be adjusted before use. An inspector, without adjusting the machine, found it to be incorrect. *Held*, not to be a weighing machine found “incorrect upon examination” within the meaning of the repealed 5 & 6 Will. 4, c. 63, sec. 28. *London and North-Western Rly. Co. v. Richards*, 2 B. & S. 326; 5 L. T. (N. S.) 792. But where such a machine was incorrect in consequence of its being out of repair a conviction under the same section was upheld. *Gr. Western Rly. Co. v. Baillie*, 5 B. & S. 928; 34 L. J. M. C. 31. A weighing machine had hanging upon the weight end of the beam a hollow ball, which could be unscrewed and contained shot. The machine was found correct on examination, but if the ball were removed or any of the shot taken out it would be unjust and against the purchaser. The justices held that the machine was not a proper instrument of adjustment, and convicted, and their conviction was upheld. *Carr v. Stringer*, L. R. 3 Q. B. 433; 37 L. J. Q. B. 168. A machine consisted of a centre pan on a vertical spring, and weighed correctly when articles were put exactly in the centre, but weighed incorrectly when they were put a little on one side. *Held*, that the justices had rightly convicted. *Reg. v. Barendale*, 44 J. P. 763.

(*i*) **False or unjust.**—A spring balance, on inspection, was found to give seventeen ounces to the pound. *Held*, that the balance was not “light or unjust” within the meaning of the repealed 22 & 23 Vict. c. 56, sec. 3, that section being intended to

or in the case of a second offence *ten pounds* (*k*), and any contract, bargain, sale, or dealing made by the same shall be void, and the weight, measure, scale, balance, or steelyard shall be liable to be forfeited.

**26.** Where any fraud (*l*) is wilfully committed in the using of any weight, measure, scale, balance, steelyard, or weighing machine, the person committing such fraud, and every person party to the fraud, shall be liable to a fine not exceeding five pounds, or in the case of a second offence *ten pounds* (*k*), and the weight, measure, scale, balance, or steelyard shall be liable to be forfeited (*m*).

**27.** A person shall not wilfully or knowingly make or sell, or cause to be made or sold, any false or unjust weight, measure, scale, balance, steelyard, or weighing machine.

Every person who acts in contravention of this section shall be liable to a fine not exceeding ten pounds, or in the case of a second offence fifty pounds.

41 & 42 Vict.  
c. 49.

Penalty for fraud in use of weight, measure, balance, &c.

Penalty on sale of false weight, measure, balance, &c.

### *Stamping and Verification of Weights and Measures.*

**28.** Every weight, except where the small size of the weight renders it impracticable, shall have the denomination of such weight stamped on the top or side thereof in legible figures and letters.

Every measure of capacity shall have the denomination thereof stamped on the outside of such measure in legible figures and letters.

A weight or measure not in conformity with this section shall not be stamped with such stamp of verification under this Act as is hereinafter mentioned.

**29.** Every measure and weight (*n*) whatsoever used for trade shall be verified and stamped by an inspector with a stamp of verification under this Act.

Every person who uses or has in his possession for use for trade any measure or weight not stamped as required by this section (*o*) shall be liable to a fine not exceeding five pounds, or in the case of a second offence ten pounds, and shall be liable to forfeit the said measure or weight, and any contract, bargain, sale, or dealing made by such measure or weight shall be void.

**30.** A weight made of lead or pewter, or of any mixture thereof, shall not be stamped with a stamp of verification or used for trade unless it be wholly and substantially cased with brass, copper, or iron, and legibly stamped or marked "cased":

Provided that nothing in this section shall prevent the insertion into a weight of such a plug of lead or pewter as is bonâ fide necessary for the purpose of adjusting it and of affixing thereon the stamp of verification.

A person guilty of any offence against or disobedience to the provisions of this section shall be liable to a penalty not exceeding five pounds, or in case of a second offence ten pounds.

Stamping of weights and measures with denomination.

Stamping of verification on measures and weights.

Lead or pewter weights.

protect the purchaser against the seller. *Brooke v. Shadgate*, L. R. 8 Q. B. 352; 42 L. J. M. C. 98. Whether a machine is "unjust" is a question of fact for the justices. *Reg. v. Bazendale*, *supra*.

(*k*) **Penalty for second offence.**—The maximum fine for a second or subsequent offence is now twenty pounds (Weights and Measures Act, 1889, sec. 3, *post*); and if the court is of opinion that such offence was committed with intent to defraud, the person convicted is liable, in addition to or in lieu of any fine, to not exceeding two months' imprisonment, with or without hard labour. *Ib.* sec. 4. The offence is a criminal matter within sec. 47 of the Judicature Act, 1873, and no appeal lies from the divisional court to the court of appeal. *Reg. v. Young*, 61 L. J. M. C. 42; 17 Cox C. C. 425.

(*l*) **Fraud.**—A grocer, selling sugar, tea, and currants, weighed a paper bag along with each, causing a deficiency in the actual weight of the articles sold. The purchaser knew of the practice, and did not complain. *Held*, that the grocer was wrongly convicted of fraud. *Harris v. Allwood*, 57 J. P. 7.

(*m*) **Liable to be forfeited.**—The provisions of this section are extended to weighing instruments by the Weights and Measures Act, 1889, sec. 3, *post*.

(*n*) **Every measure and weight.**—Every "weighing instrument" is also required to be verified and stamped by an inspector. Weights and Measures Act, 1889, sec. 1, *post*.

(*o*) **Stamped as required.**—Under the repealed 5 & 6 Will. 4, c. 63, sec. 21, it was held that where weights or measures had once been duly stamped a person using them was not liable to be convicted because the stamp had become obliterated by use and time, provided they were otherwise unobjectionable. *Starr v. Stringer*, L. R. 7 C. P. 383; 26 L. T. (N.S.) 735.



41 & 42 Vict.  
c. 49.

Stamping of  
verification  
on weights  
for coin.

Forgery, &c.  
of stamps on  
measures  
or weights.

**31.** Every coin weight, not less in weight than the weight of the lightest coin for the time being current, shall be verified and stamped by the Board of Trade with a mark of verification under this Act, and otherwise shall not be deemed a just weight for determining the weight of gold and silver coin of the realm.

Every person who uses any weight declared by this section not to be a just weight shall be liable to a fine not exceeding fifty pounds.

**32 (p).** If any person forges or counterfeits any stamp used for the stamping under this Act of any measure or weight, or used before the commencement of this Act for the stamping of any measure or weight, under any enactment repealed by this Act, or wilfully increases or diminishes a weight so stamped, he shall be liable to a fine not exceeding fifty pounds.

Any person who knowingly uses, sells, utters, disposes of, or exposes for sale any measure or weight with such forged or counterfeit stamp thereon, or a weight so increased or diminished, shall be liable to a fine not exceeding ten pounds.

All measures and weights with any such forged or counterfeit stamp shall be forfeited.

## II.—ADMINISTRATION.

### (a) *Central.*

#### *Board of Trade.*

**33.** [*Powers and duties of Board of Trade as to standards of weights and measures, &c. (q).*]

#### *Custody and Verification of Standards and Copies.*

**34.** [*Custody of imperial and Board of Trade standards to remain with Board of Trade (q).*]

**35.** [*Custody and periodical verification of parliamentary copies of imperial standards (q).*]

**36.** [*Periodical verification of Board of Trade standards (q).*]

Verification  
by Board of  
Trade of local  
standards.

**37.** The Board of Trade shall cause to be compared with the Board of Trade standards and verified at such place as the Board of Trade in each case direct all copies of any of those standards which are submitted for the purpose by any local authority, and have been used or are intended to be used as local standards, and if they find the same fit for the purpose of being used by inspectors of weights and measures under this Act as standards for the verification and inspection of weights and measures, shall cause them to be stamped as verified or re-verified in such manner as to show the date of such verification or re-verification, and every such verification shall be evidenced by an indenture, and every such re-verification shall be evidenced by an indorsement upon the original indenture of verification, or by a new indenture of verification.

Any such indenture or indorsement, if purporting to be signed (either before or after the passing of this Act) by an officer of the Board of Trade, shall be evidence of the verification or re-verification of the weights and measures therein referred to.

Any such indenture or indorsement shall not be liable to stamp duty, nor shall any fee be payable on the verification or re-verification of any local standard.

An account shall be kept by the Board of Trade of all local standards verified or re-verified.

Power of Board  
of Trade to  
verify metric  
weights and  
measures.

**38.** Whereas the Board of Trade have obtained accurate copies of the metric standards mentioned in part two of the third schedule to this Act, and it is expedient to make the provision hereinafter mentioned for the verification of metric weights and measures, be it therefore enacted as follows:

The Board of Trade may, if they think fit, cause to be compared with the metric standards in their custody and verified all metric weights and measures which are submitted to them for the purpose, and are of such shape and con-

(p) **Forgery, &c.**—See, 32 is extended to apply to weighing instruments by the Weights and Measures Act, 1889, sec. 1 (4), *post*.

(q) **Sections 33—36.**—These sections do not affect local government.

struction as may be from time to time in that behalf directed by the Board of Trade, and which the Board of Trade are satisfied are intended to be used for the purpose of science or of manufacture, or for any lawful purpose not being for the purpose of trade within the meaning of this Act.

39. The Board of Trade, on payment of such fee, not exceeding five shillings, as they from time to time prescribe, shall cause all coin weights required by this Act to be verified, to be compared with the standard weights for weighing coin, and, if found to be just, stamped with a mark approved of by the Board, and notified in the London Gazette.

All fees under this section shall be paid into the Exchequer.

(b) *Local Administration.*

*Local Standards.*

40. The local authority (mentioned in the fourth schedule to this Act) of every county and borough from time to time shall provide such local standards of measure and weight as they deem requisite for the purpose of the comparison by way of verification or inspection, in accordance with this Act, of all weights and measures in use in their county or borough, and shall fix the places at which such standards are to be deposited.

The said local authority shall also provide from time to time proper means for verifying weights and measures by comparison with the local standards of such authority and for stamping the weights and measures so verified.

41. A local standard of weight shall not be deemed legal nor be used for the purposes of this Act unless it has been verified or re-verified within five years before the time at which it is used.

A local standard of measure shall not be deemed legal nor be used for the purposes of this Act unless it has been verified or re-verified within ten years before the time at which it is used.

A local standard of weight or measure which has become defective in consequence of any wear or accident, or has been mended, shall not be legal nor be used for the purpose of this Act until it has been re-verified by the Board of Trade.

A local standard may, save as aforesaid, be re-verified, for the purpose of this section, by such local comparison thereof as is hereinafter mentioned, if on that local comparison it is found correct, but otherwise shall be, and in any case may be, re-verified by the Board of Trade.

A local comparison of a local standard shall be made by an inspector of weights and measures for the county or borough in which such standard is used comparing the same, in the presence of a justice of the peace, with some other local standard which has been verified or re-verified by the Board of Trade, in the case of a weight within the previous five years, and in the case of a measure within the previous ten years.

Upon a local comparison where the local standard is found correct the justice shall sign an indorsement upon the indenture of verification of that standard, stating such local comparison and verification, and the error, if any, found thereon, and the indorsement so signed shall be transmitted to the Board of Trade to be recorded in the account of the verification of local standards. The indorsement when so recorded shall be evidence of the local comparison and verification, and a statement of the record thereof, if purporting to be signed by an officer of the Board of Trade, shall be evidence of the same having been so recorded.

It shall be lawful for Her Majesty from time to time, by order in council, to define the amount of error to be tolerated in local standards when verified or re-verified by the Board of Trade, or when re-verified by such a local comparison as is authorised by this section (r).

42. The local standards shall be produced by the person having the custody thereof, upon reasonable notice, at such reasonable time and place within the county, borough, or place for which the same have been provided, as any person by writing under his hand requires, upon payment by the person requiring such production of the reasonable charges of producing the same.

41 & 42 Vict.  
c. 49.

Verification  
and stamping  
of coin  
weights.

Provision of  
local standards  
by local  
authority.

Periodical  
verification  
of local  
standards.

Production  
of local  
standards.

(r) The error to be tolerated in local standards is defined by O. in C. dated June 29th 1882 (*Lond. Gaz.*, June 29th, 1882, p. 3085) and O. in C. dated March 15th, 1893 (*Lond. Gaz.*, March 17th, 1893, p. 1678).

41 & 42 Vict.  
c. 49.

Appointment  
of inspectors  
of weights  
and measures.

*Local Verification and Inspection of Weights and Measures.*

**43.** Every local authority shall from time to time appoint a sufficient number of inspectors of weights and measures for safely keeping the local standards provided by such authority, and for the discharge of the other duties of inspectors under this Act; and where they appoint more than one such inspector, shall allot to each inspector (subject to any arrangement made for a chief inspector or inspectors) a separate district, to be distinguished by some name, number, or mark; and the local authority may suspend or dismiss any inspector appointed by them or appoint additional inspectors, as occasion may require, and shall assign reasonable remuneration to each inspector for his duties.

A local authority may, if they think fit, appoint different persons to be inspectors for verification and for inspection respectively of weights and measures under this Act (r) . . .

An inspector of weights and measures shall forthwith on his appointment enter into a recognizance to the Crown (to be sued for in any court of record) in the sum of two hundred pounds for the due performance of the duties of his office, and for the due payment, at the times fixed by the local authority appointing him, of all fees received by him under this Act, and for the safety of the local standards and the stamps and appliances for verification committed to his charge, and for their due surrender immediately on his removal or other cessation from office to the person appointed by the local authority to receive them.

Verification  
and stamping  
by inspectors  
of weights  
and measures.

**44.** The local authority shall from time to time fix the times and places within their jurisdiction at which each inspector appointed by them is to attend for the purpose of the verification of weights and measures; and the inspector shall attend, with the local standards in his custody, at each time and place fixed, and shall examine every measure or weight which is of the same denomination as one of such standards and is brought to him for the purpose of verification, and compare the same with that standard, and if he find the same correct shall stamp it with a stamp of verification in such manner as best to prevent fraud; and in the case of a measure or of a weight of a quarter of a pound or upwards, shall further stamp thereon a name, number, or mark distinguishing the district for which he acts.

He shall also enter in a book kept by him minutes of every such verification, and give, if required, a certificate under his hand of every such stamping.

An inspector appointed by the local authority for a county may enter a place within the district of an inspector appointed by any other local authority, and there verify and stamp the weights and measures of any person residing within his own district, but if he knowingly stamp a weight or measure of any person residing in the district of an inspector legally appointed by another local authority, he shall be liable to a fine not exceeding twenty shillings for every weight or measure which he so stamps (s).

Validity of  
weights and  
measures  
stamped  
throughout  
the United  
Kingdom.  
Power to  
inspect  
measures,  
weights,  
scales, &c.  
and to enter  
shops, &c. for  
that purpose.

**45.** A weight or measure duly stamped by an inspector under this Act shall be a legal weight or measure throughout the United Kingdom, unless found to be false or unjust, and shall not be liable to be re-stamped because used in any place other than that in which it was originally stamped.

**46—47.** [*Rep. by the Weights and Measures Act, 1889, secs. 5 and 36, post.*]

**48.** Every inspector under this Act authorised in writing under the hand of a justice of the peace, also every justice of the peace, may at all reasonable times inspect all weights, measures, scales, balances, steelyards, and weighing machines within his jurisdiction which are used or in the possession of any person (t) or on any premises for use for trade, and may compare every such

(r) **Section 43.**—The omitted words are repealed by the Weights and Measures Act, 1889, sec. 36, *post*.

(s) **District of inspector.**—The inspector for a city knowingly stamped, at his office in that city, weights sent to him by a person residing within the district of an inspector appointed by the county authority, and was held to have incurred a penalty under a similar provision of the repealed 5 & 6 Will. 4, c. 63, sec. 25. *Reg. v. Skelton*, 1 E. & E. 816; 28 L. J. M. C. 222.

(t) **In the possession of any person.**—A labourer was left in charge of a dairy by a dairy farmer, and refused to produce to an inspector certain weights and measures which were on the premises. *Held*, that there was no evidence that the weights and measures were "in the possession" of the labourer, and that the justices were right in refusing to convict. *Smith v. Webb*, 12 T. L. R. 450.



weight and measure with some local standard, and may seize and detain any weight, measure, scale, balance, or steelyard which is liable to be forfeited in pursuance of this Act, and may, for the purpose of such inspection, enter any place, whether a building or in the open air, whether open or enclosed, where he has reasonable cause to believe that there is any weight, measure, scale, balance, steelyard, or weighing machine which he is authorised by this Act to inspect.

Any person who neglects or refuses to produce for such inspection all weights, measures, scales, balances, steelyards, and weighing machines in his possession (*u*) or on his premises, or refuses to permit the justice or inspector to examine the same or any of them, or obstructs the entry of the justice or inspector under this section, or otherwise obstructs or hinders a justice or inspector acting under this section, shall be liable to a fine not exceeding five, or, in the case of a second offence, ten pounds.

49. If an inspector under this Act stamps a weight or measure in contravention of any provision of this Act, or without duly verifying the same by comparison with a local standard, or is guilty of a breach of any duty imposed on him by this Act, or otherwise misconducts himself in the execution of his office, he shall be liable to a fine not exceeding five pounds for each offence.

Penalty on  
inspector for  
misconduct.

#### *Local Authorities.*

50. For the purposes of this Act "the local authority" and "the local rate" shall mean in each of the different areas mentioned in the first column of the fourth schedule to this Act the authority and the rate or fund mentioned in that schedule in connexion with that area (*x*) . . .

Local  
authorities and  
local rate.

51. The expense of providing and re-verifying local standards, the salaries of the inspectors, and all other expenses incurred by the local authority under this Act shall be paid out of the local rate (*y*).

Expenses of  
local authority.

The treasurer of the county in which a borough in England having a separate court of quarter sessions is situate shall exclude from the account kept by him of all sums expended out of the county rate to which the borough is liable to contribute all sums expended in pursuance of this Act.

52. Any two or more local authorities may combine, as regards either the whole or any part of the areas within their jurisdiction, for all or any of the purposes of this Act, upon such terms and in such manner as may be from time to time mutually agreed upon.

Power of  
local  
authorities  
to combine  
for purposes  
of Act.

An inspector appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction, and duties as if he had been appointed by each of the authorities who are parties to such agreement.

53. Any local authority from time to time, with the approval of the Board of Trade, may make, and when made, revoke, alter, and add to, byelaws for regulating the comparison with the local standards of such authority, and the verification and stamping of weights and measures in use in their county or borough, and for regulating the local comparison of the local standards of such authority, and generally for regulating the duties under this Act of the inspectors appointed by the local authority or of any of those inspectors. Such byelaws may impose fines not exceeding twenty shillings for the breach of any byelaw, to be recovered on summary conviction. The Board of Trade before approving any such byelaws shall cause them to be published in such manner as they think sufficient for giving notice thereof to all persons interested.

Power to  
local authority  
to make  
byelaws as to  
local verifi-  
cation, &c.

54. Where a town or other place (*z*) has been or may hereafter be authorised under any Act, whether local or otherwise, to appoint inspectors or examiners of

Appointment  
of inspectors  
in towns and  
other places.

(*u*) In the possession of any person.—See note (*t*) on page 1350.

(*x*) Section 50.—The omitted words make provision as to the local authority in boroughs which have not a separate court of quarter sessions.

(*y*) Local rate, i.e., the consolidated rate in the City (sched. 4, *post*) and the special county rate in the rest of the Metropolis. Loc. Govt. Act, 1888, secs. 3 (xiii), 41 (3), and 68 (3), *ante*, vol. i.

(*z*) Town or other place.—See, as to the court of burgesses of the city of Westminster, sec. 69 and note thereto, *post*.

Notwithstanding anything in this section (54), and any other provision in this or any other Act, inspectors of weights and measures appointed by the county council alone

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weights and measures, or where any other place has been or may hereafter be, by charter, Act of Parliament, or otherwise, possessed of legal jurisdiction, and such town or place is for the time being provided with legal local standards, the magistrates of such town or place, or other persons authorised as aforesaid, may appoint inspectors of weights and measures within the limits of their jurisdiction, and suspend and dismiss such inspectors, and such inspectors shall within such limits exclusively have the same power and discharge the same duties as inspectors of weights and measures appointed under this Act by the local authority for the county, and shall pay over and account for the fees received by them under this Act, to such persons as may be duly authorised by the magistrates or other persons appointing them.

Power of  
vestry, &c. in  
Metropolis  
to put an end  
to appointment  
of inspectors  
of weights  
and measures  
under local  
Act.

**55.** Where in any place in the Metropolis—that is to say, in the parishes and places in which the *Metropolitan Board of Works* (a) have power to levy the consolidated rate (b)—any vestry, commissioners, or other body have any duties or powers, under any local Act, charter, or otherwise (c), in relation to the appointment of inspectors or examiners of weights and measures, such vestry, commissioners, or body may, at a meeting specially convened for the purpose of which not less than fourteen days' notice has been given, resolve that it is expedient that their said duties and powers should cease in such place.

The clerk or other like officer of such vestry, commissioners, or body shall give notice of such resolution to the clerk of the peace for the county in which such place is situate, and the clerk of the peace shall lay such notice before the next practicable court of quarter sessions for the county, and after the receipt of such notice by the court of quarter sessions the appointment, and all powers of appointment, of any inspector or examiner appointed under such local Act, charter, or otherwise, shall cease in the said place, without prejudice to any proceedings then pending for penalties or otherwise.

#### Legal Proceedings.

Prosecution  
of offences  
and recovery  
of fines.

**56.** All offences under this Act may be prosecuted and all fines and forfeitures under this Act may be recovered on summary conviction before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Act (d).

The court when hearing and determining an information or complaint under this Act shall be constituted either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.

Provisions as  
to summary  
proceedings.

**57.** The following enactments shall apply to proceedings under this Act before a court of summary jurisdiction; that is to say—

1—3. [*Rep. by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 4.*]

4. Such portion of any fine under this Act, not exceeding a moiety, as the court of summary jurisdiction before whom a person is convicted think fit to direct, may, if the court in their discretion so order, be paid to the informer.

5. All weights, measures, scales, balances, and steelyards forfeited under this Act shall be broken up, and the materials thereof may be sold or otherwise disposed of as a court of summary jurisdiction direct, and the proceeds of such sale shall be applied in like manner as fines under this Act.

within the county of London, exclusive of the City, have the powers and discharge the duties of inspectors of weights and measures appointed under this Act. *Weights and Measures Act, 1889, sec. 16, post.*

(a) **Metropolitan Bd. Wks.**—Now the London County Council. *Loc. Govt. Act, 1888, sec. 40 (8), ante, vol. i.*

(b) **Consolidated rate.**—This rate is superseded by the county rate. *Loc. Govt. Act, 1888, sec. 3 (1) and note thereto, ante, vol. i.*

(c) **Commissioners or other body.**—See note to sec. 54, *supra*.

(d) **Summary Jurisdiction Act.**—See note to sec. 227 of the *Met. Man. Act, 1855, ante, vol. i.*, as to the time and manner of taking summary proceedings.

58. A person shall not be liable to any increased penalty for a second offence under any section of this Act unless that offence was committed after a conviction within five years previously for an offence under the same section. 41 & 42 Vict. c. 49.

59. Where any weight, measure, scale, balance, steelyard, or weighing machine is found in the possession<sup>(e)</sup> of any person carrying on trade within the meaning of this Act, or on the premises of any person which, whether a building or in the open air, whether open or enclosed, are used for trade within the meaning of this Act, such person shall be deemed for the purposes of this Act, until the contrary is proved, to have such weight, measure, scale, balance, steelyard, or weighing machine in his possession for use for trade. Limitation as to conviction for second offences. Evidence as to possession.

60. Any person who feels himself aggrieved by a conviction or order of a court of summary jurisdiction under this Act may appeal therefrom, subject in England to the conditions following; that is to say— Appeal from conviction.

(1) The appeal shall be made to the next practicable court of quarter sessions<sup>(f)</sup> . . .

61. In an action for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, tender of amends before the action is commenced may in lieu of or in addition to any other plea be pleaded, if the action was commenced after such tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim. If the action is commenced after such tender, or is proceeded with after such payment, and the plaintiff does not recover more than the sum tendered or paid respectively, the plaintiff shall not recover any costs incurred after such tender or payment, and the defendant shall be entitled to his costs, to be taxed as between solicitor and client, as from the time of such tender or payment; but this provision shall not affect costs on any injunction in the action. Provision as to action against person acting in execution of Act.

### III.—MISCELLANEOUS.

62. Every inquisition which, in pursuance of any Act hereby repealed, has been taken for ascertaining the amount of contracts to be performed or rents to be paid in grain or malt, or in any other commodity or thing, or with reference to the measure or weight of any grain, malt, or other commodity or thing, and the amount of any toll, rate, or duty payable according to any weight or measure in use before the passing of the said Act, and has been enrolled of record in Her Majesty's Court of Exchequer, shall continue in force, and may be given in evidence in any legal proceeding, and the amount ascertained by such inquisition shall, when converted into imperial weights and measures, continue to be the rule of payment in regard to all such contracts, rents, tolls, rates, or duties. Continuance of inquisition recorded for ascertaining rents and tolls payable.

63. It shall be lawful for Her Majesty in Council from time to time to make orders for the purposes of this Act, and to revoke and vary any such order. Orders of council.

All orders in council made under this Act shall be published in the London, Edinburgh, and Dublin Gazettes, and shall be forthwith laid before both Houses of Parliament, and shall have full effect as part of this Act.

64. The schedules to this Act, with the notes thereto, shall be construed and have effect as part of this Act. Effect of schedules.

65. Where an enactment refers to any Act repealed by this Act, or to any enactment thereof, the same shall be construed to refer to this Act or to the corresponding enactment of this Act. Construction of Acts referring to repealed enactments.

### *Savings and Definitions.*

66. Nothing in this Act shall affect the validity of the models of gas holders verified and deposited in the standards department of the Board of Trade in pursuance of the Sale of Gas Act, 1859, and of the Acts amending the same, and the provisions of this Act with respect to Board of Trade standards shall apply to such models; and the provisions of this Act with respect to defining the amount of error to be tolerated in local standards when verified or re-verified, Saving as to models of gas holders under 22 & 23 Vict. c. 66.

<sup>(e)</sup> Possession.—See *Smith v. Webb*, ante, p. 1350.

<sup>(f)</sup> Appeal to quarter sessions.—The remainder of this section is repealed, and provisions are substituted, by the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), sec. 4. As to the time and manner of appealing, see note to sec. 227 of the Met. Man. Act, 1855, ante, vol. i.



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Saving as to  
rights of the  
Founders'  
Company.

Saving as to  
London.

Act not to  
abridge the  
power of the  
Justices, &c.

Definitions :  
"Summary  
Jurisdiction  
Act."

"Person :"  
"Stamping :"

"Coin  
weight :"  
"Weights and  
Measures  
Act, 1835."

Repeal.

shall apply to defining the amount of error to be tolerated in such copies of the said models of gas holders as are provided by any justices, council, commissioners, or other local authority in pursuance of the said Acts.

**67.** Nothing in this Act shall extend to prohibit, defeat, injure, or lessen the rights granted by charter to the master, wardens, and commonalty of the mystery of Founders of the City of London (*g*).

**68.** Nothing in this Act shall prohibit, defeat, injure, or lessen the right of the mayor and commonalty and citizens of the City of London, or of the Lord Mayor of the City of London for the time being, with respect to the stamping or sealing of weights and measures, or with respect to the gauging of wine or oil, or other gaugeable liquors (*g*).

**69.** Nothing in this Act shall extend to supersede, limit, take away, lessen, or prevent the authority which any person or body politic or corporate, or any person appointed at any court leet for any hundred or manor, or any jury or ward inquest, may have or possess for the examining, regulating, seizing, breaking, or destroying any weights, balances, or measures within their respective jurisdictions, and for the purposes of this section the court of burgesses of the city of Westminster (*h*) shall be deemed to be a body politic, and nothing in this Act shall be deemed to repeal or supersede the Acts relating to that court, or lessen, diminish, or alter the powers of the same.

**70.** In this Act, unless the context otherwise requires—

The expression "the Summary Jurisdiction Act" means the Act of the session of the eleventh and twelfth years of Her present Majesty, chapter forty-three, intitled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," inclusive of any Acts amending the same :

\* \* \* \* \*

The expression "person" includes a body corporate :

The expression "stamping" includes casting, engraving, etching, branding, or otherwise marking, in such manner as to be so far as practicable indelible, and the expression "stamp" and other expressions relating thereto shall be construed accordingly :

The expression "coin weight" means a weight used or intended to be used for weighing coin :

The expression "Weights and Measures Act, 1835," means the Act of the fifth and sixth years of the reign of King William the Fourth, chapter sixty-three, intitled "An Act to repeal an Act of the fourth and fifth year of His present Majesty relating to weights and measures, and to make other provisions instead thereof."

**71—75.** [*Application of Act to Scotland.*]

**76—85.** [*Application of Act to Ireland.*]

## VI.—REPEAL.

**86** (*i*). . . . So much of the said Acts as is set forth in the second part of that schedule shall be re-enacted in manner therein appearing, and shall be in force as if enacted in the body of this Act.

Provided that—

(1) Every inspector appointed in pursuance of any enactment hereby repealed shall continue in office as if he had been appointed in pursuance of this Act; and

(*g*) **Sections 67 and 68.**—Notwithstanding anything in these sections, a person using weights or measures in the City is not required to have his weights or measures verified or stamped by more than one authority. Weights and Measures Act, 1889, sec. 17, *post*.

(*h*) **City of Westminster.**—24 & 25 Vict. c. 78 empowers the court of burgesses of the city of Westminster to appoint inspectors of weights and measures to visit shops and warehouses, and to inspect the weights and measures of persons in the streets, to seize unjust weights and measures, and to summon offenders.

The inspectors of weights and measures appointed by the county council alone, within the whole of the county of London, exclusive of the City, have the powers and discharge the duties of inspectors of weights and measures appointed under this Act. Weights and Measures Act, 1889, sec. 16, *post*.

(*i*) **Section 86.**—So much of this section as is omitted is repealed by 46 & 47 Vict. c. 39 and 57 & 58 Vict. c. 56 (Statute Law Revision).

- (2) Any person holding office as examiner of weights and measures under any enactment repealed by this Act, and not being an inspector of weights and measures within the meaning of this Act, shall continue in office and receive the same remuneration, and have the same powers and duties and be subject to the same liabilities and to the same power of dismissal as if this Act had not passed. 41 & 42 Vict. c. 49.
- (3) Every notice published in a gazette in relation to coin weights in pursuance of any enactment hereby repealed shall continue in force.
- (4) All weights and measures duly verified and stamped in pursuance of any enactment hereby repealed shall continue and be as valid as if they had been verified and stamped in pursuance of this Act, and that although such weights or measures could not have been verified and stamped in pursuance of this Act (*k*) . . .

## SCHEDULES.

## FIRST SCHEDULE.

## PART I.

## IMPERIAL STANDARDS.

[*Description and Custody.*]Sections  
4, 10, 13, 64.

## PART II.

## PARLIAMENTARY COPIES OF IMPERIAL STANDARDS.

[*Description and Custody.*]Sections  
5, 35, 64.

## SECOND SCHEDULE.

Sections 8, 64.

## BOARD OF TRADE STANDARDS.

STANDARDS of the measures and weights following are at the commencement of this Act in use under the direction of the Board of Trade.

## MEASURES OF LENGTH.

## MEASURES OF CAPACITY.

| Denomination of Standard.                                                 | Denomination of Standard.           |
|---------------------------------------------------------------------------|-------------------------------------|
| MEASURE OF LENGTH.                                                        | MEASURES OF CAPACITY.               |
| 100 feet.                                                                 | Bushel.                             |
| 66 feet or a chain of 100 links.                                          | Half-bushel.                        |
| Rod, pole, or perch.                                                      | Peck.                               |
| 10 feet.                                                                  | Gallon.                             |
| 6 " or 2 yards.                                                           | Half-gallon.                        |
| 5 "                                                                       | Quart.                              |
| 4 "                                                                       | Pint.                               |
| 3 " or 1 yard.                                                            | Half-pint.                          |
| 2 "                                                                       | Gill.                               |
| 1 foot.                                                                   | Half-gill.                          |
| 1 inch divided into 12 duodecimal, 10 decimal, and 16 binary equal parts. | Quarter-gill.                       |
|                                                                           | MEASURES USED IN THE SALE OF DRUGS. |
|                                                                           | Fluid ounces :—                     |
|                                                                           | 4, 3, 2, 1.                         |
|                                                                           | Fluid drachms :—                    |
|                                                                           | 4, 3, 2, 1.                         |
|                                                                           | Minims :—                           |
|                                                                           | 30, 20, 10, 5, 4, 3, 2, 1.          |

NOTE.—The brass gallon marked "Imperial Standard Gallon, Anno Domini MDCCCXXIV., Anno V<sup>th</sup> Regis," which has a diameter equal to its height, and was made in pursuance of 5 Geo. 4, c. 74, sec. 6, and is at the passing of this Act in the custody of the Warden of the Standards, shall be deemed to be a Board of Trade standard for the gallon.

(*k*) Section 86.—See note (*i*) on page 1354.

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WEIGHTS.

| Denomination of Standard. | Denomination of Standard | Denomination of Standard. |
|---------------------------|--------------------------|---------------------------|
| AVOIRDUPOIS WEIGHTS.      | TROY BULLION WEIGHTS.    | DECIMAL GRAIN WEIGHTS.    |
| 56 pounds.                | 500 ounces.              | 4,000 grains.             |
| 28 "                      | 400 "                    | 2,000 "                   |
| 14 "                      | 300 "                    | 1,000 "                   |
| 7 "                       | 200 "                    | 500 "                     |
| 4 "                       | 100 "                    | 300 "                     |
| 2 "                       | 50 "                     | 200 "                     |
| 1 pound.                  | 40 "                     | 100 "                     |
| 8 ounces.                 | 30 "                     | 50 "                      |
| 4 "                       | 20 "                     | 30 "                      |
| 2 "                       | 10 "                     | 20 "                      |
| 1 ounce.                  | 5 "                      | 10 "                      |
| 8 drams.                  | 4 "                      | 5 "                       |
| 4 "                       | 3 "                      | 3 "                       |
| 2 "                       | 2 "                      | 2 "                       |
| 1 dram.                   | 1 ounce.                 | 1 grain.                  |
| $\frac{1}{2}$ "           | 0.5 "                    | 0.5 "                     |
| 240 grains, common-       | 0.4 "                    | 0.3 "                     |
| ly called 10 penny-       | 0.3 "                    | 0.2 "                     |
| weights.                  | 0.2 "                    | 0.1 "                     |
| 120 grains, common-       | 0.1 "                    | 0.05 "                    |
| ly called 5 penny-        | 0.05 "                   | 0.03 "                    |
| weights.                  | 0.04 "                   | 0.02 "                    |
| 72 grains, common-        | 0.03 "                   | 0.01 "                    |
| ly called 3 penny-        | 0.02 "                   |                           |
| weights.                  | 0.01 "                   |                           |
| 48 grains, common-        | 0.005 "                  |                           |
| ly called 2 penny-        | 0.004 "                  |                           |
| weights.                  | 0.003 "                  |                           |
| 24 grains, common-        | 0.002 "                  |                           |
| ly called 1 penny-        | 0.001 "                  |                           |
| weight.                   |                          |                           |

COIN WEIGHTS.

| Denomination of Coin.   | Standard Weight. |                |
|-------------------------|------------------|----------------|
|                         | Imperial Weight. | Metric Weight. |
| GOLD :                  |                  |                |
| Five pound.....         | 616.37239        | 399.4028       |
| Two pound.....          | 246.54895        | 159.7611       |
| Sovereign.....          | 123.27447        | 79.8805        |
| Half-sovereign.....     | 61.63723         | 39.9402        |
| SILVER :                |                  |                |
| Crown.....              | 436.36363        | 282.7590       |
| Half-crown.....         | 218.18181        | 141.3795       |
| Florin.....             | 174.54545        | 113.1036       |
| Shilling.....           | 87.27272         | 56.5518        |
| Sixpence.....           | 43.63636         | 28.2759        |
| Groat or fourpence..... | 29.09090         | 18.8506        |
| Threepence.....         | 21.81818         | 14.1379        |
| Twopence.....           | 14.54545         | 9.4253         |
| Penny.....              | 7.27272          | 4.7126         |
| BRONZE :                |                  |                |
| Penny.....              | 145.83333        | 94.4984        |
| Halfpenny.....          | 87.50000         | 56.6990        |
| Farthing.....           | 43.75000         | 28.3495        |



## THIRD SCHEDULE.

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## PART I.

Sections 18, 64.

## METRIC EQUIVALENTS.

TABLE of the Values of the Principal Denominations of Measures and Weights on the Metric System expressed by means of Denominations of Imperial Measures and Weights, and of the Values of the Principal Denominations of Measures and Weights of the Imperial System expressed by means of Metric Weights and Measures.

## MEASURES OF LENGTH.

| Metric Denominations and Values. |                  | Equivalents in Imperial Denominations. |        |        |      |           |
|----------------------------------|------------------|----------------------------------------|--------|--------|------|-----------|
| —————                            | Metres.          | Miles.                                 | Yards. | Feet.  | Ins. | Decimals. |
| Myriametre.....                  | 10,000           | {<br>or                                | 6      | 376    | 0    | 11·9      |
| Kilometre.....                   | 1,000            |                                        |        | 10,936 | 0    | 11·9      |
| Hectometre.....                  | 100              |                                        |        | 1,093  | 1    | 10·79     |
| Dekametre.....                   | 10               |                                        |        | 109    | 1    | 1·079     |
| Metre.....                       | 1                |                                        |        | 10     | 2    | 9·7079    |
| Decimetre.....                   | $\frac{1}{10}$   |                                        |        | 1      | 0    | 3·3708    |
| Centimetre.....                  | $\frac{1}{100}$  |                                        |        |        |      | 3·9371    |
| Millimetre.....                  | $\frac{1}{1000}$ |                                        |        |        |      | 0·3937    |
|                                  |                  |                                        |        |        |      | 0·0394    |

## MEASURE OF SURFACE.

| Metric Denominations and Values.         |                | Equivalents in Imperial Denominations. |               |             |
|------------------------------------------|----------------|----------------------------------------|---------------|-------------|
| —————                                    | Square Metres. | Acres.                                 | Square Yards. | Decimals.   |
| Hectare, i.e., 100 Ares.....             | 10,000         | {<br>or                                | 2             | 2,280·3326  |
| Dekare, i.e., 10 Ares.....               | 1,000          |                                        |               | 11,960·3326 |
| Are.....                                 | 100            |                                        |               | 1,196·0333  |
| Centiare, i.e., $\frac{1}{100}$ Are..... | 1              |                                        |               | 119·6033    |
|                                          |                |                                        |               | 1·1960      |

## MEASURES OF CAPACITY.

| Metric Denominations and Values.          |                    | Equivalents in Imperial Denominations. |          |        |          |         |        |           |
|-------------------------------------------|--------------------|----------------------------------------|----------|--------|----------|---------|--------|-----------|
| —————                                     | Cubic Metres.      | Quartars.                              | Bushels. | Pecks. | Gallons. | Quarts. | Pints. | Decimals. |
| Kilolitre, i.e., 1,000 Litres             | 1                  | 3                                      | 3        | 2      | 0        | 0       | 0      | 0·77      |
| Hectolitre, i.e., 100 Litres              | $\frac{1}{10}$     |                                        |          |        |          |         |        | 0·077     |
| Dekalitre, i.e., 10 Litres...             | $\frac{1}{100}$    |                                        |          |        |          |         |        | 1·6077    |
| Litre.....                                | $\frac{1}{1000}$   |                                        |          |        |          |         |        | 1·76077   |
| Decilitre, i.e., $\frac{1}{10}$ Litre.... | $\frac{1}{10000}$  |                                        |          |        |          |         |        | 0·176077  |
| Centilitre, i.e., $\frac{1}{100}$ Litre   | $\frac{1}{100000}$ |                                        |          |        |          |         |        | 0·0176077 |

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WEIGHTS.

| Metric Denominations and Values. |                  | Equivalents in Imperial Denominations. |         |         |         |        |            |
|----------------------------------|------------------|----------------------------------------|---------|---------|---------|--------|------------|
|                                  | Grams.           | Cwts.                                  | Stones. | Pounds. | Ounces. | Drams. | Decimals.  |
| Millier.....                     | 1,000,000        | 19                                     | 5       | 6       | 9       |        | 15·04      |
| Quintal.....                     | 100,000          | 1                                      | 7       | 10      | 7       |        | 6·304      |
| Myriagram.....                   | 10,000           |                                        | 1       | 8       | 0       |        | 11·8304    |
| Kilogram.....                    | 1,000            | { (or 15432·3487 grains)               |         |         |         | 3      | 4·3830     |
| Hectogram.....                   | 100              |                                        |         |         | 3       |        | 8·1383     |
| Dekagram.....                    | 10               |                                        |         |         |         |        | 5·6438     |
| Gram.....                        | 1                |                                        |         |         |         |        | 0·56438    |
| Decigram.....                    | $\frac{1}{10}$   |                                        |         |         |         |        | 0·056438   |
| Centigram.....                   | $\frac{1}{100}$  |                                        |         |         |         |        | 0·0056438  |
| Milligram.....                   | $\frac{1}{1000}$ |                                        |         |         |         |        | 0·00056438 |

MEASURES OF LENGTH.

| Imperial Measures.               | Equivalents in Metric Measures. |            |               |            |
|----------------------------------|---------------------------------|------------|---------------|------------|
|                                  | Millimetre.                     | Decimetre. | Metre.        | Kilometre. |
| Inch.....                        | =25·39954                       |            |               |            |
| Foot or 12 inches.....           | —                               | =3·04794   | = 0·30479     |            |
| YARD, or 3 feet, or 36 inches    | —                               | —          | = 0·91438     |            |
| Fathom, or 2 yards, or 6 feet    | —                               | —          | = 1·82877     |            |
| Pole or 5½ yards.....            | —                               | —          | = 5·02911     |            |
| Chain, or 4 poles, or 22 yards   | —                               | —          | = 20·11644    |            |
| Furlong, 40 poles, or 220 yards  | —                               | —          | = 201·16437   | = 0·20116  |
| Mile, 8 furlongs, or 1,760 yards | —                               | —          | = 1,609·31493 | = 1·60931  |

MEASURES OF SURFACE.

| Imperial Measures.                                         | Equivalents in Metric Measures. |                |             |             |
|------------------------------------------------------------|---------------------------------|----------------|-------------|-------------|
|                                                            | Square Decimetres.              | Square Metres. | Ares.       | Hectares.   |
| Square inch.....                                           | = 0·06451                       |                |             |             |
| Square foot or 144 square inches.....                      | = 9·28997                       | = 0·092900     |             |             |
| Square yard, or 9 square feet, or 1,296 square inches..... | = 83·60971                      | = 0·836097     |             |             |
| Pole or perch, or 30½ square yards.....                    | —                               | = 25·291939    |             |             |
| Rood, or 40 perches, or 1,210 square yards.....            | —                               | —              | = 10·116776 |             |
| ACRE, or 4 roods, or 4,840 square yards.....               | —                               | —              | —           | = 0·40467   |
| Square mile or 640 acres.....                              | —                               | —              | —           | = 258·98945 |

## MEASURES OF CAPACITY.

41 & 42 Vict.  
c. 49.

| Imperial Measures.               | Equivalents in Metric Measures. |           |             |              |
|----------------------------------|---------------------------------|-----------|-------------|--------------|
|                                  | Decilitres.                     | Litres.   | Dekalitres. | Hectolitres. |
| Gill .....                       | = 1·41983                       | = 0·14198 |             |              |
| Pint or 4 gills.....             | = 5·67932                       | = 0·56793 |             |              |
| Quart or 2 pints.....            | —                               | = 1·13587 |             |              |
| GALLON or 4 quarts.....          | —                               | = 4·54346 |             |              |
| Peck or 2 gallons.....           | —                               | = 9·08692 | = 0·90869   |              |
| Bushel, or 8 gallons, or 4 pecks | —                               | —         | = 3·63477   |              |
| Quarter or 8 bushels.....        | —                               | —         | —           | = 2·90781    |

## CUBIC MEASURE.

| Imperial Measures.               | Equivalents in Metric Measures. |                   |               |
|----------------------------------|---------------------------------|-------------------|---------------|
|                                  | Cubic Centimetres.              | Cubic Decimetres. | Cubic Metres. |
| Cubic inch.....                  | 16·38618                        |                   |               |
| Cubic foot or 1,728 cubic inches | —                               | 28·31531          |               |
| Cubic yard or 27 cubic feet..... | —                               | —                 | 0·76451       |

## WEIGHTS.

| Imperial Weights.                                          | Equivalents in Metric Weights. |            |              |                        |
|------------------------------------------------------------|--------------------------------|------------|--------------|------------------------|
|                                                            | Grams.                         | Dekagrams. | Kilograms.   | Millier or Metric Ton. |
| Grain.....                                                 | = 0·06479895                   |            |              |                        |
| Dram.....                                                  | = 1·77185                      |            |              |                        |
| Ounce, avoirdupois, or 16<br>drams, or 437·5 grains.....   | = 28·34954                     | = 2·83495  |              |                        |
| POUND, or 16 ounces, or 256<br>drams, or 7,000 grains..... | = 453·59265                    | = 45·35927 | = 0·45359    |                        |
| Hundredweight or 112 lbs....                               | —                              | —          | = 50·80238   |                        |
| Ton or 20 cwt. ....                                        | —                              | —          | = 1016·04754 | = 1·01605              |
| Ounce troy, or 480 grains ...                              | = 31·103496                    | = 3·11035  |              |                        |

## PART II.

Sections 38, 64

## METRIC STANDARDS.

List of metric standards in the custody of the Board of Trade at the passing of this Act:—

| <i>Measures of Length.</i>                | <i>Measures of Capacity.</i>        |
|-------------------------------------------|-------------------------------------|
| Double metre or 2 metres.                 | 20, 10, 5, 2 litres.                |
| METRE or 1 metre.                         | LITRE.                              |
| Decimetre or 0·1 „                        | 0·5 litre or 500 cubic centimetres. |
| Centimetre or 0·01 „                      | 0·2 „ 200 „                         |
| Millimetre or 0·001 „                     | 0·1 „ 100 „                         |
|                                           | 0·05 „ 50 „                         |
|                                           | 0·02 „ 20 „                         |
|                                           | 0·01 „ 10 „                         |
| 20, 10, 5, 2 kilograms.                   | 0·005 „ 5 „                         |
| KILOGRAM.                                 | 0·002 „ 2 „                         |
| 500, 200, 100, 50, 20, 10, 5, 2, 1 grams. | 0·001 „ 1 „                         |
| 5, 2, 1 decigrams.                        |                                     |
| 5, 2, 1, 0·5 milligrams.                  |                                     |



41 &amp; 42 Vict.

c. 49.

Sections 40,

50, 64.

## FOURTH SCHEDULE.

## LOCAL AUTHORITIES.

## ENGLAND.

| Area.                        | Local Authority (l).                                              | Local Rate.                        |
|------------------------------|-------------------------------------------------------------------|------------------------------------|
| County.....                  | <i>The justices in general or quarter sessions assembled (l).</i> | The county rate (m).               |
| County of the City of London | <i>The court of the Lord Mayor and aldermen of the City (l).</i>  | The consolidated rate.             |
| Borough.....                 | <i>The mayor, aldermen, and burgesses acting by the council.</i>  | The borough fund and borough rate. |

## [SCOTLAND.—IRELAND.]

\* \* \* \* \*

## Notes.

For the purposes of this schedule—

The expression “county,” as regards England, does not include a county of a city or a county of a town, but includes every riding, division, or parts of a county having a separate court of quarter sessions. The Soke of Peterborough shall be deemed to be a county, but every other liberty of a county not forming part of the City of London shall be deemed to form part of the county in which the same is situate or which it adjoins, and if it adjoins more than one county, then of the county with which it has the longest common boundary.

The expression “borough,” as regards England, means any place for the time being subject to the Municipal Corporation Act, 1835, and any Act amending the same, which has a separate commission of the peace . . .

\* \* \* \* \*

## FIFTH SCHEDULE.

[*Fees of Inspectors. Rep. by the Weights and Measures Act, sec. 36, post.*]

## SIXTH SCHEDULE.

## FIRST PART.

## Enactments repealed.

[*Rep. by 57 & 58 Vict. c. 56. Statute Law Revision.*]

## SECOND PART.

## Enactments re-enacted.

5 &amp; 6 Will. 4, c. 63, s. 9.

[*Rep. by the Weights and Measures Act, 1878, sec. 36, post.*]

5 &amp; 6 Will. 4, c. 63, s. 26.

[*Supply of weigh-masters in Ireland with scales and copies of local standards.*]

(l) **Local authority.**—Now the London County Council in the Metropolis, exclusive of the City; and the common council in the City. Loc. Govt. Act, 1888, sec. 3 (xiii), and note thereto, *ante*, vol. i.; and Weights and Measures Act, 1889, sec. 16, *post*.

(m) **County rate**, i.e., the special county rate. Loc. Govt. Act, 1888, secs. 3 (xiii), 41 (3), and 68 (3), *ante*, vol. i.

22 &amp; 23 Vict. c. 56, ss. 6, 8, 12.

41 & 42 Vict.  
c. 49.

The owners or managers of any public market in Great Britain where goods are exposed or kept for sale shall provide proper scales and balances and weights and measures or other machines for the purpose of weighing or measuring all goods sold, offered, or exposed for sale in any such market, and shall deposit the same at the office of the clerk or toll collector of such market, or some other convenient place, and shall have the accuracy of all such scales and balances and weights and measures or other machines tested at least twice in every year by the inspector of weights and measures of and for the county borough, or place where the market is situate ;

Owners of  
markets to  
provide  
scales, &c.

All expenses attending the purchase, adjusting, and testing thereof shall be paid out of the moneys collected for tolls in the market ;

Such clerk or toll collector shall at all reasonable times, whenever called upon so to do, weigh or measure all goods which have been sold, offered, or exposed for sale in any such market, upon payment of such reasonable sum as may from time to time be decided upon by the said owners or managers, subject to the approval and revision of the justices in general or quarter sessions assembled if such market be in England, or of the sheriff if it be in Scotland ;

For every contravention of this section the offender shall be liable on summary conviction to a fine not exceeding five pounds.

22 &amp; 23 Vict. c. 56, ss. 7, 8, 12.

Every clerk or toll collector of any public market in Great Britain, at all reasonable times, may weigh or measure all goods sold, offered, or exposed for sale in any such market ; and if upon such weighing or measuring any such goods are found deficient in weight or measure or otherwise contrary to the provisions of this Act, such clerk or toll collector shall take the necessary proceedings for recovering any fine to which the person selling, offering, or exposing for sale, or causing to be sold, offered, or exposed for sale, such goods, is liable, and the court convicting the offender may award out of the fine to such clerk or toll collector such reasonable remuneration as to the court seems fit.

Power to  
clerks of  
markets to  
inspect goods  
sold, &c., and  
if weighing  
found deficient  
to summon the  
offender.

For every offence against or disobedience to this section the offender shall be liable on summary conviction to a fine not exceeding five pounds.

## WEIGHTS AND MEASURES ACT, 1889.

**52 & 53 Vict. c. 21.** An Act for amending the Law relating to Weights and Measures, and for other purposes connected therewith.

[26th July, 1889]

[Preamble.]

### PART I.

#### *Weights and Measures.*

**1.—(1)** Every weighing instrument<sup>(u)</sup> used for trade<sup>(o)</sup> shall be verified and stamped by an inspector of weights and measures with a stamp of verification under this Act.

Verification of  
weighing  
instruments.

**(2)** Every person who, after the expiration of twelve months from the commencement of this Act, uses, or has in his possession for use, for trade any weighing instrument not stamped as required by this Act, shall be liable to a fine not exceeding two pounds, or in the case of a second offence five pounds.

<sup>(u)</sup> **Weighing instrument** is defined by sec. 35, *post*.

<sup>(o)</sup> **Used for trade.**—An unstamped weighing machine was used to weigh approximately pigs of lead prior to their dispatch by rail. The weights were not accepted by the railway company, who relied on the lead being weighed in their presence by the consignees, and this weight was also accepted by the consignor. Held, that the machine ought to have been stamped. *Crick v. Theobald*, 64 L. J. M. C. 216 ; 59 J. P. 502. See also *Wray v. Reynolds* and *Painter v. Seers*, *ante*, p. 1346.

52 & 53 Vict.  
c. 21.

(3) The power of making byelaws conferred by section fifty-three of the principal Act shall extend to the making of byelaws for giving effect to this section.

(4) Section thirty-two of the principal Act shall apply to weighing instruments in like manner as it applies to weights and measures.

Local verification of metric weights and measures.

2. The Board of Trade may, if they think fit, at the expense of the local authority, deposit with any inspector of weights and measures copies of any of the metric standards in their custody, and cause to be verified with any copy so deposited any metric weights and measures which can under section thirty-eight of the principal Act be compared with the metric standards in their custody.

Amendment of 41 & 42 Vict. c. 49, ss. 25 and 26.

3. The fine for a second or a subsequent offence under section twenty-five or section twenty-six of the principal Act shall be a sum not exceeding twenty pounds, and the provisions of the said section twenty-six with respect to forfeiture shall apply to weighing instruments in like manner as they apply to weights, measures, scales, balances, and steelyards.

Liability to imprisonment in cases of fraud.

4. Where a person is convicted under any section of the principal Act or this Act of a second or subsequent offence, and the court by which he is convicted is of opinion that such offence was committed with intent to defraud, he shall be liable, in addition to or in lieu of any fine, to be imprisoned with or without hard labour for a term not exceeding two months.

5. [Repeal of 41 & 42 Vict. c. 49, secs. 16, 46.]

New denominations of standards.

6. The Board of Trade shall from time to time cause such new denominations of standards for the measurement of electricity (o), temperature, pressure, or gravities as appear to them to be required for use for trade to be made and duly verified, and those new denominations of standards when approved by Her Majesty in Council shall, whether derived from imperial or from other standards, be Board of Trade standards, in like manner as if they were mentioned in the second schedule to the principal Act.

Working standards.

7. Any local authority may provide for the use of their officers working standards of measure and weight, and scale-beams of such material and in such form as the Board of Trade may approve, and those standards may, if verified in such manner as the Board of Trade from time to time direct, be used for the inspection and verification of weights and measures as if they were local standards.

Power for Board of Trade to take fees.

8.—(1) The Board of Trade may, on the comparison and verification of weights and measures not being standards for the use of a local authority or their officers, and not being coin weights, and on the examination or testing of weighing or measuring instruments, charge and take such fees as may from time to time be approved by the Treasury.

(2) The fees taken under this section may be applied in such manner and to such extent as the Treasury may from time to time direct in aid of money provided by Parliament for expenses of the Board of Trade under this Act, and if and as far as not so applied shall be paid into the Exchequer.

General regulations.

9.—(1) Every local authority within the meaning of this Act, and every other person or authority having power to appoint inspectors of weights and measures, shall, with the approval of the Board of Trade, make for the guidance of the inspectors appointed or employed by that authority or person, and may from time to time with the like approval amend or rescind, general regulations with respect to—

(a) the procedure to be observed in the verification and stamping of weights, measures, and weighing and measuring instruments, including the prohibition of stamping in cases where the material or mode of construction appears likely to facilitate the commission of fraud; and

(b) the inspection of weights, measures, and weighing and measuring instruments.

(2) If any such authority or person, on being required by the Board of Trade to make, amend, or rescind any general regulations in pursuance of this section, fails to comply with the requirement, the Board of Trade may make, amend, or

(o) **Electricity.**—New denominations for the measurement of electricity were approved by O. in C. dated Aug. 23rd, 1894 (*Lond. Gaz.* Aug. 24th, 1894, p. 4931).



rescind such regulations, and any regulations so made or amended shall have effect as if made by that authority or person.

(3) All regulations made under this section shall be duly observed and kept published in such manner as the Board of Trade from time to time shall direct.

**10.**—(1) The Board of Trade may from time to time appoint an officer to hold a local inquiry with respect to the administration of the law relating to weights and measures within the jurisdiction of any local authority.

(2) The appointment may be made either on the application of the local authority or without such application, but with the concurrence of the Treasury.

(3) The officer so appointed shall visit the office of the local inspector of weights and measures, and shall, among other things, inquire into the procedure observed in the verification and inspection of weights, measures, and weighing instruments within that jurisdiction; and, on the completion of the local inquiry, shall report to the Board of Trade and to the local authority on the condition and equipment of the office visited, and on the mode in which the law relating to weights and measures is being carried out within the jurisdiction of that authority.

(4) Where the appointment is made on the application of a local authority, the costs incurred in relation to the inquiry, including the remuneration of any officer engaged in the inquiry, not exceeding three guineas a day, shall be paid by the local authority applying for or assenting to the inquiry, and the Board of Trade may certify the amount of the costs incurred, and any sum so certified and directed by the Board to be paid by any local authority shall be a debt to the Crown from that authority.

(5) Where the appointment is made otherwise than on the application of the local authority, the costs incurred in relation to the inquiry, including the remuneration aforesaid, shall be paid out of moneys provided by Parliament.

**11.**—(1) The Board of Trade shall provide for the holding of examinations for the purpose of ascertaining whether persons acting or appointed to act as inspectors of weights and measures possess sufficient practical knowledge for the proper performance of their duties as such, and for the grant of certificates to persons who satisfactorily pass such examinations.

(2) In the case of persons who have been appointed inspectors before the commencement of this Act, the passing of an examination under this section shall be permissive, but not obligatory; put a person who, after the commencement of this Act, is for the first time appointed to be an inspector of weights and measures shall not act as such unless and until he has obtained such a certificate as aforesaid (p).

(3) There shall be charged in respect of the examinations under this section such fees as the Board of Trade, with the concurrence of the Treasury, from time to time direct, and all such fees shall be applied in such manner and to such extent as the Treasury from time to time direct, in aid of money provided by Parliament for expenses of the Board of Trade under this Act, and if and as far as not so applied shall be paid into the Exchequer.

**12.**—(1) An inspector of weights and measures shall not, during the time he holds office, be a person deriving any profit from or employed in the making, adjusting, or selling of weights, measures, or measuring or weighing instruments:

(2) Provided that in any district where, on the representation of the local authority, it appears to be desirable for an inspector of weights and measures to be allowed to adjust weights and measures, the Board of Trade may, if they think fit, authorise an inspector appointed by that local authority to act as an adjuster of weights and measures.

(3) An inspector so authorised may for any such adjustment make such charges as the local authority approve, and shall account for and pay any money received by him in respect of such charges in such manner as the local authority direct.

**13.**—(1) An inspector of weights and measures may take in respect of the verification and stamping of weights, measures, and weighing instruments the

(p) **Inspector not to act without certificate.**—The fact that an inspector appointed under this Act has not yet received his certificate does not preclude him from laying an information for breach of a byelaw under sec. 28. *Crabtree v. Bulman*, 12 T. L. R. 469.

52 & 53 Vict.  
c. 21.

Provision as to  
local inquiries.

Qualification  
of inspectors of  
weights and  
measures.

Inspector not  
to be maker,  
seller, or  
adjuster  
of weights,  
measures, or  
weighing  
instruments.

Fees for veri-  
fication and  
stamping by  
inspectors.

52 & 53 Vict.  
c. 21.

fees specified in the first schedule to this Act, and no others, and no discount shall be allowed, and such inspector shall at such times, not less often than once a quarter, as the local authority direct, account for and pay over to the local authority, or as they direct, all fees so taken.

(2) If the Board of Trade represent to Her Majesty that it would be expedient to fix fees to be paid on the verification and stamping of weights, measures, or weighing instruments, in cases other than those specified in the said schedule, it shall be lawful for Her Majesty, by order in council, from time to time to direct such fees to be paid (*p*).

Publication of  
convictions.

14. Where a person is convicted before any court of any offence under the principal Act or this Act, the court may, if it thinks fit, cause the conviction to be published in such manner as it thinks desirable.

Application of  
41 & 42 Vict.  
c. 49, s. 66 to  
gas standards.

15. The provisions of the principal Act and of this Act as to the verification and re-verification of local and working standards shall apply to the standards used by any local authority in testing meters under the Sale of Gas Act, 1859 (*q*).

Powers to  
London  
County Council  
to exercise  
jurisdiction  
throughout the  
county.

16. Notwithstanding anything in section fifty-four of the principal Act, and any other provision in that or any other Act, the inspectors of weights and measures appointed by the London County Council shall alone within the whole of the county of London, exclusive of the City of London, have the powers and discharge the duties of inspectors of weights and measures appointed under the principal Act; provided that any inspector of weights and measures who, at the passing of this Act, though not an officer of the county council, holds office in any parish or place in the county of London, exclusive of the City of London, shall become an officer of that council, and if removed from such appointment by the London County Council he shall be entitled to be regarded as an existing officer (*r*) under the Local Government Act, 1888, and to receive such compensation as existing officers whose offices are affected are under that Act entitled to receive.

51 & 52 Vict.  
c. 41.

Provision as to  
City of London.

17. Notwithstanding anything in section sixty-seven or sixty-eight of the principal Act, a person using weights or measures in the City of London shall not be required to have his weights or measures verified or stamped by more than one authority.

18. [*Provision of copies of local standards in Ireland.*]

19. [*Amendment of 41 & 42 Vict. c. 49, as to inspectors in Ireland.*]

## PART II.

### *Sale of Coal (s).*

Coal to be sold  
by weight.

20.—(1) All coal shall be sold by weight only, except where by the written consent of the purchaser it is sold by boat load or by waggons or tubs delivered from the colliery into the works of the purchaser.

(2) If any person sells coal otherwise than is required by this section he shall be liable to a fine not exceeding five pounds for every such sale.

Weight ticket  
or note on  
delivery of coal  
over two  
hundred-  
weight.

21.—(1) Where any quantity of coal exceeding two hundredweight is delivered by means of any vehicle to a purchaser, the seller of the coal shall therewith deliver, or cause to be delivered, or to be sent by post or otherwise, to the purchaser or to his servant, before any part of the coal is unloaded, a ticket or

(*p*) **Fees.**—O. in C. dated March 21st, 1890 (*Lond. Gaz.* March 25th, 1890, p. 1788), extends the list of fees to be paid to inspectors.

(*q*) **Verification, &c., of local standards.**—See secs. 40—42 and 66 of the *Weights and Measures Act, 1878, ante*, and sec. 7 of the present Act, *supra*.

(*r*) **Existing officer.**—See the *Loc. Govt. Act, 1888*, sec. 118, *ante*, vol. i.

(*s*) **Sale of coal.**—1 & 2 Will. 4, ch. lxxvi., as amended by 1 & 2 Vict. ch. ci. and 14 & 15 Vict. ch. cxlvi., secs. 1 and 50, requires all coals, coke, cinders, and culm sold within twenty-five miles of the General Post Office to be sold by weight, and to be delivered in sacks containing 112 lbs., unless delivered in bulk at the request of the purchaser. With any quantity exceeding 560 lbs. the seller is required to deliver a ticket before the coal is unloaded. The carman is required to carry a weighing machine, and, on the request of the purchaser, or some one acting on his behalf, to weigh any one or more of the sacks with the coals therein, and afterwards without any coals therein. It is not sufficient to put the weights and an empty sack on one scale and weigh each full sack on the other. *Smith v. Wood*, 24 Q. B. D. 23; 59 L. J. Q. B. 5.

note (t) according to the form in the third schedule to this Act, or according to a form to the like effect. 52 & 53 Vict. c. 21.

(2) If default is made in complying with the requirements of this section with respect to the delivery or sending of a ticket or note, or if the quantity of coal delivered is less than the quantity expressed in the ticket or note (u), the seller of the coal shall be liable to a fine not exceeding five pounds.

(3) If any person attending on any such vehicle, having received any such ticket or note for delivery to the purchaser, refuses or neglects to deliver it as required by this section, or, on being requested so to do, to exhibit it to any inspector of weights and measures, or other officer appointed for the purpose by the local authority, he shall be liable to a fine not exceeding five pounds.

**22.**—(1) Where any quantity of coal exceeding two hundredweight is conveyed for delivery on sale in a vehicle in bulk, the seller of the coal shall, unless the vehicle is provided by the purchaser, cause the weight of the vehicle, as well as of the coal contained therein, to be previously ascertained by a weighing instrument stamped by the inspector of weights and measures, and being on or near to the place from which the coal is brought, and shall from time to time cause the tare weight of the vehicle to be marked thereon in such manner as the local authority approve.

Tare weight of vehicle where coal sold in bulk.

(2) In any such case the seller of the coal shall insert or cause to be inserted in the ticket required by this Act to be given by him a statement of the correct weight of the vehicle, or of the vehicle and of the animal drawing it where both are weighed together with the load, as well as of the correct weight of the coal contained in the vehicle.

(3) If any person fails to comply with the requirements of this section he shall be liable to a fine not exceeding five pounds.

**23.** If the person in charge of any vehicle in which coal is being carried wilfully makes any false statement as to the tare weight of the vehicle, or wilfully does any act by which either the seller or the purchaser of the coal is defrauded, he shall be liable to a fine not exceeding five pounds.

Frauds by drivers of coal carts.

**24.** If any person on the sale of coal in any quantity not exceeding two hundredweight fraudulently delivers to the purchaser a less quantity of coal than is agreed to be sold, he shall be liable to a fine not exceeding five pounds.

Penalty on deficiency in weight of coal on small sales.

**25.**—(1) Where coal is sold by retail for delivery at the place where it is kept for sale and there is not at or near such place any weighing instrument stamped by an inspector of weights and measures at which the coal can be weighed, the seller shall keep at that place a weighing instrument stamped as aforesaid, and shall, if so required by any purchaser, or by any inspector of weights and measures, or by any other officer appointed for the purpose by the local authority, weigh any coal before the sale or delivery thereof.

Weighing instrument to be kept in place where coal sold by retail.

(2) If any person fails to comply with the requirements of this section he

If any sack so weighed is found to be deficient, the purchaser may require all the coals to be weighed in the presence of a constable or other independent person.

Penalties are imposed for neglecting or refusing to deliver a coal ticket, for selling one sort of coal for another, for deficiency in weight, for neglecting to carry a weighing machine, and for refusing to weigh coal when requested. There is no local authority appointed for the enforcement of the Act, and a corporate body, such as a board of guardians, cannot sue for penalties as common informers. *Shorditch Guardians v. Franklin*, 42 J. P. 727. A corporate body can only sue for penalties as common informers when expressly empowered to do so by the Act which imposes the penalties. *Id.*

(t) **Deliver ticket or note.**—Six tons of coal were delivered in three carts, each cart making two journeys. A ticket for the whole quantity was delivered with the second load. Held, that a ticket should have been delivered with each vehicle for each load. *Stangoe v. Slatter*, 12 T. L. R. 335. The omission to deliver a ticket in accordance with the requirements of sec. 3 of 1 & 2 Vict. ch. ci. (see note (s), *supra*) is a bar to an action for the sale and delivery of coals exceeding 560 lbs. in weight. *Cundell v. Dawson*, 4 C. B. 375; 17 L. J. C. P. 311; *Little v. Poole*, 9 B. & C. 192.

(u) **Less than quantity expressed.**—Where a ticket expressed that the purchaser would receive 2 tons in 20 sacks, each containing 2 cwt., but some of the sacks contained less and some more than 2 cwt., the whole quantity delivered, however, being 2 tons, it was held that the seller could not be convicted of an offence under this section. *Godfrey v. Radford*, 75 L. T. (N. S.) 224. *Quære* whether he might not have been convicted under sec. 22, *post*. *Id.*



52 & 53 Vict. c. 21. shall be liable to a fine not exceeding for a first offence two pounds, and for any subsequent offence five pounds.

Erection and maintenance of weighing instruments.

**26.**—(1) The local authority may erect and maintain fixed weighing instruments at convenient places for the purpose of weighing coal, and may provide, furnish, and maintain portable weighing instruments for the same purpose, and may appoint proper persons to keep and attend any such instruments.

(2) If the keeper of any such fixed weighing instrument refuses, without reasonable excuse, to weigh or re-weigh any vehicle or coal, or so weighs any vehicle or coal as wilfully to defraud either the seller or the purchaser of coal, he shall be liable to a fine not exceeding five pounds.

Power to require weighing of coal or vehicle.

**27.**—(1) Any seller or purchaser of coal, person in charge of a vehicle in which coal is carried, inspector of weights and measures, or other officer appointed for the purpose by the local authority, may require that any coal or any vehicle used for the carriage of coal in bulk be weighed or re-weighed by any weighing instrument stamped by an inspector of weights and measures.

Provided as follows:

(a) No seller of coal or person in charge of a vehicle in which coal is carried shall be required under this section to carry coal beyond such distance, not exceeding half a mile, as may be prescribed in that behalf by the local authority:

(b) Where any such coal or vehicle has at the instance of the purchaser been weighed or re-weighed in pursuance of this section, and found to be of the weight stated in that behalf by the seller of the coal or the person in charge of the vehicle, the purchaser shall be liable to the payment of all reasonable costs actually incurred of and incidental to the weighing or re-weighing.

(2) If any person obstructs any weighing or re-weighing authorised by this section he shall be liable to a fine not exceeding five pounds.

Power to make byelaws with respect to the sale of coal.

**28.**—(1) Any local authority may from time to time make, revoke, and alter byelaws (x),

(a) regulating for the purposes of this Act the sale of coal in quantities not exceeding two hundredweight (y); and,

(b) requiring, either generally or in specified classes of cases, a weighing instrument, of a form approved by the local authority (z), to be carried (a) with any vehicle in which coal is carried for sale or delivery to a purchaser; and

(c) prescribing the distance beyond which coal is not to be required to be carried for the purpose of being weighed or re-weighed in pursuance of this Act; and

(d) fixing the fees to be paid for the use of any weighing instrument maintained by the local authority;

and may by such byelaws impose fines, recoverable summarily, and not exceeding in each case five pounds, for the breach of any such byelaw.

(2) Every byelaw made under this section shall, before being brought into operation, be approved by the Board of Trade and be published in such manner

(x) **Byelaws.**—See note to sec. 23 of the Mun. Corp. Act, 1882, *ante*, vol. i., as to the general principles applicable to the making of byelaws.

(y) **Regulating the sale.**—A byelaw required that “every person in charge of any vehicle carrying coal for sale . . . in quantities not exceeding 2 cwt. . . shall re-weigh the coal upon being requested to do so by the purchaser, or by an inspector of weights and measures, or by any constable.” Held by Lord Russell of Killowen, C. J. (Wright, J., doubting), that the section authorised the making of a byelaw requiring coal to be weighed by the person in charge of the vehicle, but held by the court that the byelaw as framed was unreasonable. *Atty v. Farrell* (1896), 1 Q. B. 636; 65 L. J. M. C. 115. See also *Kent County Council v. Humphrey*, *infra*.

(z) **Form approved by local authority.**—A byelaw requiring every vehicle carrying coal for sale on delivery to “carry therewith a weighing machine of a form approved by” the local authority is good. *Martin v. Clark*, 62 L. J. M. C. 178; 5 R. 542.

(a) **To be carried.**—Though this section authorises a byelaw requiring a weighing machine to be carried with every cart conveying coal for sale or delivery, it is doubtful whether it empowers the local authority to make a byelaw requiring the seller to re-weigh the coal on the request of the purchaser or an inspector. *Kent County Council v. Humphrey* (1895), 1 Q. B. 903; 64 L. J. M. C. 190. See also *Atty v. Farrell*, *supra*.

as the local authority think sufficient for giving notice thereof to all persons interested, and a copy of every such byelaw shall be sent by the local authority to the Board of Trade. 52 & 53 Vict. c. 21.

**29.**—(1) Any inspector of weights and measures or officer appointed for the purpose by the local authority may, at all reasonable times, enter any building or part of a building, or other place in which coal is sold or kept, or exposed for sale, and may stop any vehicle carrying coal for sale or for delivery to a purchaser, and may test any weights and weighing instruments found in any such place or vehicle, and may weigh any load, sack, or other less quantity of coal, found in any such place or vehicle, or which is in course of delivery to any purchaser. Power to weigh coal in shop or vehicle.

(2) If it appears to a court of summary jurisdiction that any load, sack (*b*), or less quantity so weighed is of less weight than that represented by the seller (*c*), the person selling, or keeping, or exposing the coal for sale, or the person in charge of the vehicle, as the case may be, shall be liable to a fine not exceeding five pounds.

(3) Any person who obstructs or hinders any inspector acting under this section shall be liable to a fine not exceeding five, or, in the case of a second or subsequent offence ten, pounds.

**30.** Her Majesty the Queen may, from time to time, on the application of the local authority for any area, and on being satisfied that the provisions made by or under any local Act in force at the commencement of this Act, with respect to the sale of coal in that area, are more stringent than the corresponding provisions of this Act, by order in council exempt that area from the provisions of this part of this Act to such extent, and under such conditions, as may appear to Her Majesty in Council expedient. Power to make local exemptions.

**31.** This part of this Act, except the provision requiring coal to be sold by weight only, shall not extend to Scotland. Extent.

### PART III.

#### *Bread (d).*

**32 (e).** Nothing in the enactments referred to in the fourth schedule to this Act shall render any baker or seller of bread, or the journeyman, servant, or other person employed by such baker or seller of bread, liable to any forfeiture or penalty for refusing to weigh in the presence of the purchaser any bread conveyed or carried out in any cart or other carriage, unless he is requested so to do by or on behalf of the purchaser. Explanation of law as to bakers.

### PART IV.

#### *Supplemental.*

**33.**—(1) No proceeding or conviction for any offence punishable under this Act shall affect any civil remedy to which any person aggrieved by the offence may be entitled. Saving for liabilities otherwise than under Act.

(*b*) **Sack of less weight.**—See *Godfrey v. Radford*, ante, p. 1365.

(*c*) **Represented by the seller.**—A seller of coal directed his servant to deliver 5 cwt. of coal in five sacks. Whilst delivering the coal the servant was asked by an inspector what weight the sacks contained, and replied 1 cwt. each. On being weighed by the inspector, each sack was found to be deficient. Held, that the representation of the servant was not the representation of the master, and that the seller was not liable to conviction. *Roberts v. Woodward*, 25 Q. B. D. 412; 59 L. J. M. C. 129. Where a contractor was employed by a seller of coal to weigh and deliver coal according to the orders of, and a delivery ticket supplied by, the seller, and the sacks were found to be of short weight, it was held that the seller was properly convicted of selling coal "of less weight than that represented by the seller," although the carman was the contractor's and not the seller's servant. *Baker v. Herd*, 58 J. P. 413. When coals are sold in sacks, bearing labels with the weights marked on them, such labels are a representation by the seller of the quantity of coal in the sacks. *Franklin v. Godfrey*, 63 L. J. M. C. 239; 43 W. R. 46.

(*d*) **Bread.**—For the law relating to the sale of bread, see note to sched. 4, post.

(*e*) **Section 32.**—For the effect and application of this section, see *Copeland v. Walker*, post, p. 1371.

52 & 53 Vict.  
c. 21.

(2) This Act shall not exempt any person from any indictment (*f*) or other proceeding for an offence which is punishable at common law or under some Act of Parliament other than this Act (*g*), so that no person be punished twice for the same offence.

(3) Where proceedings are taken before any court against any person in respect of any offence punishable under this Act, and the offence is also punishable at common law or under some Act of Parliament other than this Act, the court may direct that, instead of those proceedings being continued, proceedings shall be taken against that person at common law or under some Act of Parliament other than this Act.

Construction  
of Act.  
Definitions.

**34.** This Act and the principal Act shall be construed together as one Act.

**35.** In this Act, unless the context otherwise requires—

“Weighing instrument” includes scales, with the weights belonging thereto, scale-beams, balances, spring-balances, steelyards, weighing machines, and other instruments for weighing;

“Measuring instrument” includes any instrument for the measurement of length, capacity, volume, temperature, pressure, or gravity, or for the measurement and determination of electrical quantities;

“Vehicle” means any carriage, cart, waggon, truck, barrow, or other means of carrying coal by land, in whatever manner the same may be drawn or propelled, but does not include a railway truck or waggon;

“Inspector” means an inspector under the principal Act.

Other expressions have the same meaning as in the principal Act: Provided that the expression “local authority” (*h*) shall, in its application to England, be construed subject to the provisions of the Local Government Act, 1888, and the expression “weighing machine” in the principal Act shall include any weighing instrument as defined by this Act.

51 & 52 Vict.  
c. 41.

Repeal.

**36.**—(1) The enactments specified in the fifth schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

(2) The repeal of any enactment by this Act shall not affect—

(a) The past operation of any enactment so repealed, or anything duly done or suffered under any enactment so repealed; or

(b) Any right or liability acquired or incurred under any enactment so repealed; or

(c) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or

(d) Any power, legal proceeding, or remedy in respect of any such right, liability, penalty, forfeiture, or punishment as aforesaid; and any such power, legal proceeding, and remedy may be exercised and carried on as if this Act had not passed.

Commence-  
ment.

**37.** This Act shall come into operation on the first day of January one thousand eight hundred and ninety, which date is in this Act referred to as the commencement of this Act;

Provided as follows:

(a) At any time after the passing of this Act any appointment, byelaw, or regulation may be made, and any other thing may be done, which appears to a local authority to be necessary or proper for the purpose of bringing this Act into operation at the commencement thereof;

(b) In Ireland . . .

**38.** [*Saving for corporation of Dublin.*]

Short titles.

**39.** This Act may be cited as the Weights and Measures Act, 1889; and the principal Act and this Act may be cited together as the Weights and Measures Acts, 1878 and 1889.

(*f*) **Indictment.**—At common law, if a person sell by false weights or measures, it is an indictable offence, but if, without false weights or measures, he sell a less quantity than he pretends to do, it is not indictable. *Ree v. Wheatly*, 2 Burr. 1125; *Ree v. Young*, 3 T. R. 104.

(*g*) **Other than this Act.**—See 1 & 2 Will. 4, ch. lxxvi., and amending Acts, *ante*, p. 1364, note (*s*).

(*h*) **Local authority.**—See the Weights and Measures Act, 1878, sched. 4, *ante*, for the local authorities.



FIRST SCHEDULE.

52 & 53 Vict.  
c. 21

*Fees to be taken on the Verification and Stamping of Weights, Measures, and Weighing Instruments by Inspectors of Local Authorities.*

Section 13.

|                                                                                                                  |  | <i>Weights.</i>  | <i>s. d.</i>     |
|------------------------------------------------------------------------------------------------------------------|--|------------------|------------------|
| <b>Avoirdupois:</b>                                                                                              |  |                  |                  |
| Each weight of 100 lb. (cental).                                                                                 |  |                  | 0 4              |
| " " " 56 lb. and 28 lb.                                                                                          |  |                  | 0 3              |
| " " " 14 lb. and 7 lb.                                                                                           |  |                  | 0 2              |
| " " " from 4 lb. to 1 lb., inclusive.                                                                            |  |                  | 0 1              |
| " " " 8 oz. to $\frac{1}{2}$ dram, inclusive.                                                                    |  |                  | 0 $0\frac{1}{2}$ |
| " " " 4,000 grains to $\frac{1}{100}$ th of a grain, inclusive                                                   |  |                  | 0 $0\frac{1}{2}$ |
| " " " 240 to 24 grains, inclusive, commonly called penny-weights.                                                |  |                  | 0 $0\frac{1}{2}$ |
| <b>Troy:</b>                                                                                                     |  |                  |                  |
| Each weight from 500 oz. to 100 oz., inclusive.                                                                  |  |                  | 0 4              |
| " " " 50 oz. to 10 oz., inclusive                                                                                |  |                  | 0 2              |
| " " " 5 oz. to $\frac{1}{1000}$ th of an oz., inclusive.                                                         |  |                  | 0 1              |
| <b>Apothecaries' :</b>                                                                                           |  |                  |                  |
| Each weight from 10 oz. to 1 oz., inclusive                                                                      |  |                  | 0 2              |
| " " " 4 drachms to $\frac{1}{2}$ grain, inclusive.                                                               |  |                  | 0 1              |
|                                                                                                                  |  | <i>Measures.</i> |                  |
| <b>Length:</b>                                                                                                   |  |                  |                  |
| Each measure from 100 feet to 7 feet, inclusive                                                                  |  |                  | 0 3              |
| " " " 6 feet to 4 feet, inclusive.                                                                               |  |                  | 0 2              |
| " " " of a yard, 2 feet, foot, and inch respectively, including their subdivisions                               |  |                  | 0 1              |
| Measures from 0.500 to 0.001 inch, in the form of wire-gauge plates:                                             |  |                  |                  |
| For each notch, or for each internal gauge or separate size, from half an inch to $\frac{1}{1000}$ th of an inch |  |                  | 0 $0\frac{1}{2}$ |
| <b>Capacity:</b>                                                                                                 |  |                  |                  |
| Dry and liquid measures:                                                                                         |  |                  |                  |
| Each measure of 4 bushels (32 gallons) and 1 bushel (8 gallons)                                                  |  |                  | 0 6              |
| " " " from 5 gallons to 2 gallons (peck), inclusive                                                              |  |                  | 0 3              |
| " " " 1 gallon to a $\frac{1}{4}$ gill, inclusive.                                                               |  |                  | 0 1              |
| <b>Apothecaries' :</b>                                                                                           |  |                  |                  |
| Each subdivided measure containing not more than twelve subdivisions                                             |  |                  | 0 1              |
| " " " " " more than twelve subdivisions but not more than fifteen                                                |  |                  | 0 $1\frac{1}{2}$ |
| " " " " " more than fifteen subdivisions but not more than eighteen.                                             |  |                  | 0 $1\frac{1}{2}$ |
| " " " " " more than eighteen subdivisions but not more than twenty-one                                           |  |                  | 0 $1\frac{3}{4}$ |
| " " " " " more than twenty-one subdivisions but not more than twenty-four.                                       |  |                  | 0 2              |
| " " " " " more than twenty-four subdivisions but not more than thirty                                            |  |                  | 0 $2\frac{1}{2}$ |
| " " " " " more than thirty subdivisions but not more than thirty-six.                                            |  |                  | 0 3              |
| " " " " " more than thirty-six subdivisions but not more than forty-two                                          |  |                  | 0 $3\frac{1}{2}$ |
| " " " " " more than forty-two subdivisions but not more than fifty.                                              |  |                  | 0 4              |
| " " " " " more than fifty subdivisions but not more than one hundred                                             |  |                  | 0 6              |
| " " " " " more than one hundred subdivisions but not more than one hundred and fifty                             |  |                  | 0 9              |
| " " " " " more than one hundred and fifty                                                                        |  |                  | 1 0              |
| Each separate measure from 40 fluid oz. to 10 fluid oz., inclusive.                                              |  |                  | 0 2              |
| " " " " " 10 fluid oz.                                                                                           |  |                  | 0 0              |

52 & 53 Vict.  
c. 21.*Weighing Instruments.*

|                                                                                   |    |   |
|-----------------------------------------------------------------------------------|----|---|
| For 10 tons and above.....                                                        | 10 | 0 |
| For under 10 tons and above 1 ton.....                                            | 5  | 0 |
| For 1 ton and above 5 cwt.....                                                    | 2  | 0 |
| For 5 cwt. and above 1 cwt.....                                                   | 1  | 6 |
| For 1 cwt. and above 56 lbs.....                                                  | 1  | 0 |
| exclusive of cost of cartage and lifting of standards in each of the above cases. |    |   |
| For 56 lbs. and above 14 lbs.....                                                 | 0  | 6 |
| For 14 lbs. and above 1 lb.....                                                   | 0  | 3 |
| For 1 lb. or under.....                                                           | 0  | 2 |

Section 19.

## SECOND SCHEDULE.

[Townships in Ireland for which Inspectors of Weights and Measures are to be appointed.]

Section 21.

## THIRD SCHEDULE.

*Weight Ticket or Consignment Note on delivery of Coal over Two Hundredweight.*

Mr. A.B. [here insert the name of the buyer].

Take notice that you are to receive herewith                      tons                      cwt.                      lbs.  
of coal.[When sold in sacks, add]  
in                      sacks, each containing                      cwt.

[When sold in bulk, add]

tons.                      cwt.                      lbs.

Weight of coal and vehicle.....

Tare weight of vehicle.....

Net weight of coal herewith  
delivered to purchaser.....

C.D. [here insert the name of the seller].

E.F. [here insert the name of the person in  
charge of the vehicle].

Where coal is delivered by means of a vehicle the seller must deliver or send by post or otherwise to the purchaser or his servant, before any part of the coal is unloaded, a ticket or note in this form.

Any seller of coal who delivers a less quantity than is stated in this ticket or note is liable to a fine.

Any person attending on a vehicle used for the delivery of coal who, having received a ticket or note for delivery to the purchaser, refuses or neglects to deliver it to the purchaser or his servant, is liable to a fine.

Section 32.

## FOURTH SCHEDULE.

| Session and Chapter.    | Title.                                                                                                                                                                                                                                                                                                                                                             | Enactments referred to. |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 3 Geo. 4, ch. cvi. .... | An Act to repeal the Acts now in force relating to bread to be sold in the City of London and the liberties thereof, and within the weekly bills of mortality, and ten miles of the Royal Exchange; and to provide other regulations for the making and sale of bread, and preventing the adulteration of meal, flour, and bread, within the limits aforesaid (i). | Section nine.           |

(i) **Sale of Bread.**—3 Geo. 4, ch. cvi., regulates the sale of bread in the City and within ten miles of the Royal Exchange, and the Sale of Bread Act, 1836

FOURTH SCHEDULE—continued.

52 & 53 Vict.  
c. 21.

| Session and Chapter.      | Title.                                                                                                                                                                                                                                                                                                                                                                                      | Enactments referred to. |
|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 6 & 7 Will. 4, c. 37. ... | An Act to repeal the several Acts now in force relating to bread to be sold out of the City of London and the liberties thereof, and beyond the weekly bills of mortality, and ten miles of the Royal Exchange; and to provide other regulations for the making and sale of bread, and for preventing the adulteration of meal, flour, and bread, beyond the limits aforesaid ( <i>k</i> ). | Section seven.          |

(6 & 7 Will. 4, c. 37), regulates the sale of bread without those limits. The provisions of the two Acts as to the sale of bread are practically identical. Bakers are empowered to make bread of any weight or size, but all bread is required to be sold by weight, under a penalty not exceeding 40s., except French or fancy bread or rolls. The bread must be weighed after baking. *Hill v. Browning*, L. R. 5 Q. B. 453; 34 J. P. 774; *Williams v. Deggan*, 31 J. P. 807; 16 L. T. (N. S.) 492. Where a customer asks for bread by weight the seller is bound to sell by weight, and to weigh the bread, whether it be ordinary bread or fancy bread. *Reg. v. Kennett*, L. R. 4 Q. B. 565; 10 B. & S. 534. See also *Mitton v. Trokes*, 33 J. P. 821; 20 L. T. (N. S.) 563. To come within the exemption of "French or fancy bread" the bread must be fancy bread at the time of sale. *Reg. v. Wood*, L. R. 4 Q. B. 599; 38 L. J. M. C. 144. Bread made in separate loaves, and so baked as to be crusted all over, and known in the trade as French or fancy bread, but differing from ordinary bread only in the manner of baking, is not "French or fancy bread" within the meaning of the exemption. *Aerated Bread Co. v. Gregg*, L. R. 8 Q. B. 355; 42 L. J. M. C. 117. Loaves similar in size, shape, and appearance to ordinary half-quartern loaves, the only difference being that they are made with an improved kind of yeast, do not come within the designation of "fancy bread." *V. V. Bread Co. v. Stubbs*, 12 T. L. R. 454.

Bakers and sellers of bread are required to use avoirdupois weight under a penalty not exceeding £5 nor less than £2; and to provide in their shops beams, scales, and weights, in order that the bread may be weighed in the presence of the purchaser. A penalty is imposed where the scales or weights are false. But there is no penalty for neglecting to provide any scales or weights at all. *Reg. v. Smith*, 63 L. J. M. C. 67; 58 J. P. 445.

Every baker or seller of bread, and every journeyman, servant, or other person employed by such baker or seller of bread, delivering bread in carts, is required to carry with the cart a correct beam and scales, with proper weights or other sufficient balance, in order that the bread may from time to time be weighed in the presence of the purchaser, under a penalty not exceeding 5*l*. for not carrying such scales, &c., or for refusing to weigh the bread in the presence of the purchaser or the person receiving it. 3 Geo. 4, ch. cvi., sec. 9; 6 & 7 Will. 4, c. 37, sec. 7. Pursuant to a general order given some time previously, a baker delivered bread to a customer by a cart unprovided with scales. Held, that he was liable to conviction. *Robinson v. Cluff*, 1 Ex. D. 294; 45 L. J. M. C. 109. A baker received through his traveller an order for a quartern loaf. The manager selected, weighed, and appropriated to the customer a loaf which was delivered by a cart unprovided with scales. Held, that the baker was rightly convicted. *Ridgway v. Ward*, 14 Q. B. D. 110; 54 L. J. M. C. 20. A customer bought three loaves at a shop. The seller weighed them in her presence, and subsequently delivered them by a cart which was not provided with scales. Held, that the baker could not be convicted. *Daniel v. Whitfield*, 15 Q. B. D. 408; 54 L. J. M. C. 134.

Nothing in the above Acts "shall render any baker or seller of bread, or the journeyman, servant, or other person employed by such baker or seller of bread liable to any forfeiture or penalty for refusing to weigh in the presence of the purchaser any bread conveyed or carried out in any cart or other carriage, unless he is requested so to do by or on behalf of the purchaser." Sec. 32, *ante*. That section applies only to sec. 9 of 3 Geo. 4, ch. cvi., and sec. 7 of 6 & 7 Will. 4, c. 37, *supra*, and only to such part of those sections as relates to a baker, &c., refusing to weigh bread sold by him. *Copeland v. Walker*, 55 J. P. 809; 56 L. T. (N. S.) 262.

No local authority is appointed for the enforcement of the bread Acts, and a corporate body cannot sue as common informers for penalties imposed by them. *Shoreditch Guardians v. Franklin*, *ante*, p. 1365.

(*k*) Sale of bread.—See note (*i*) on p. 1370.



52 & 53 Vict.  
c. 21.

## FIFTH SCHEDULE.

Section 36.

## ENACTMENTS REPEALED.

| Session and Chapter.   | Short Title.                        | Extent of Repeal.                                                                                                                                                                                                                                                                 |
|------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 41 & 42 Vict. c. 49... | The Weights and Measures Act, 1878. | Section sixteen.<br>Section forty-three, from "A maker or seller of weights" to "measures under this Act."<br>Section forty-six.<br>Section forty-seven.<br>Section eighty-six, so far as it re-enacts section nine of the Weights and Measures Act, 1835.<br>The Fifth Schedule. |

## WEIGHTS AND MEASURES (PURCHASE) ACT, 1892.

**55 & 56 Vict. c. 18.** An Act for authorising County and Borough Councils to purchase Franchises of Weights and Measures.

[20th June, 1892]

Power for  
county or  
borough  
council to  
purchase  
franchise of  
weights and  
measures.

1.—(1) Where the council of a county or borough are the local authority for the execution of the law relating to weights and measures, the council and the owner of any franchise of weights and measures may, with the approval of the Board of Trade, enter into and carry into effect any agreement for the sale to and purchase by the council of all or any of the powers and authorities of the franchise owner within the area under the council as such local authority, and on any such purchase being completed the powers and authorities purchased shall cease to be exercised.

(2) For the purpose of any such purchase the Lands Clauses Acts shall be incorporated with this Act, except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement, and the franchise shall be deemed land within the meaning of those Acts.

(3) A county council may borrow money for the purposes of this Act in accordance with the Local Government Act, 1888, and a borough council may borrow money for the purposes of this Act in accordance with the Public Health Act, 1875.

(4) [*Expenses incurred by a borough council.*]

(5) For the purposes of this Act the expression "franchise of weights and measures" shall include the authority which any court leet for any hundred or manor, or any jury or ward inquest, or the lord or lady of any manor, or any other person, may have for inspecting, examining, regulating, verifying, stamping, adjusting, seizing, breaking, or destroying any weights or measures, or weighing instrument or measuring instrument.

2. [*Provision as to certain boroughs.*]

3. This Act shall not extend to Scotland or Ireland.

4. This Act may be cited as the Weights and Measures (Purchase) Act, 1892, and shall be read as one with the Weights and Measures Acts, 1878 and 1889.

Extent of  
Act.

Short title  
and con-  
struction.

41 & 42 Vict.  
c. 49.

52 & 53 Vict.  
c. 21.

## WILD BIRDS PROTECTION.

|                                                                |               |
|----------------------------------------------------------------|---------------|
| 43 & 44 Vict. c. 35 ( "Wild Birds Protection Act, 1880" )..... | page 1373     |
| 44 & 45 Vict. c. 51 ( "Wild Birds Protection Act, 1881" )..... | note (b) 1373 |
| 57 & 58 Vict. c. 24 ( "Wild Birds Protection Act, 1894" )..... | 1375          |
| 59 & 60 Vict. c. 56 ( "Wild Birds Protection Act, 1896" )..... | note (d) 1374 |

## WILD BIRDS PROTECTION ACT, 1880.

43 & 44 Vict. c. 35. An Act to amend the Laws relating to the Protection of Wild Birds. [7th September, 1880]

1. This Act may for all purposes be cited as the Wild Birds Protection Act, 1880. Short title.

2. The words "wild birds" shall for all the purposes of this Act be deemed to mean all wild birds. . . . Definition of terms.

3. Any person who between the first day of March and the first day of August (a) in any year after the passing of this Act shall knowingly and wilfully shoot or attempt to shoot, or shall use any boat for the purpose of shooting or causing to be shot, any wild bird, or shall use any line, trap, snare, net, or other instrument for the purpose of taking any wild bird, or shall expose or offer for sale, or shall have in his control or possession after the fifteenth day of March, any wild bird recently killed or taken, shall, on conviction of any such offence before any two justices of the peace in England, . . . in the case of any wild bird which is included in the schedule hereunto annexed, forfeit and pay for every such bird in respect of which an offence has been committed a sum not exceeding one pound, and, in the case of any other wild bird, shall for a first offence be reprimanded and discharged on payment of costs, and for every subsequent offence forfeit and pay for every such wild bird in respect of which an offence is committed a sum of money not exceeding five shillings, in addition to the costs (b) . . . This section shall not apply to the owner or occupier of any land, or to any person authorised by the owner or occupier of any land, killing or taking any wild bird on such land (c) not included in the schedule hereto annexed. Penalties for shooting or taking wild birds.

4. Where any person shall be found offending against this Act, it shall be lawful for any person to require the person so offending to give his Christian name, surname, and place of abode, and in case the person so offending shall, after being so required, refuse to give his real name or place of abode, or give an untrue name or place of abode, he shall be liable on being convicted of any Penalty for refusing to give name and place of abode.

(a) Between 1st March and 1st August.—Throughout the county of London this period is extended so as to be from the 1st February to the 31st August by order of the Home Secretary dated 15th February, 1896 (*Lon. Gaz.*, 21st February, 1896, p. 1038). See also sec. 8 and note thereto, *post*.

(b) Section 3.—The words here omitted from this section are repealed by the Wild Birds Protection Act, 1881 (44 & 45 Vict. c. 51), which substitutes the following provision:—

"A person shall not be liable to be convicted under section three of the Wild Birds Protection Act, 1880, of exposing or offering for sale, or having the control or possession of, any wild bird recently killed, if he satisfies the court before whom he is charged either—

(1) That the killing of such wild bird, if in a place to which the said Act extends, was lawful at the time when and by the person by whom it was killed; or

(2) That the wild bird was killed in some place to which the said Act does not extend, and the fact that the wild bird was imported from some place to which the said Act does not extend shall, until the contrary is proved, be evidence that the bird was killed in some place to which the said Act does not extend."

This provision gets rid of the decision in *Taylor v. Rogers*, 50 L. J. M. C. 132; 45 L. T. (N. S.) 314.

(c) On such land.—R. having, with the authority of the occupier of certain land, shot wild birds thereon, which were taken on other land without the authority of the owner or occupier thereof, was held not to be entitled to this exemption, and to have been rightly convicted. *Reg. or Warr v. Gilham*, 52 L. T. (N. S.) 326; 49 J. P. 357.

43 & 44 Vict.  
c. 35. such offence to forfeit and pay, in addition to the penalties imposed by section three, such sum of money not exceeding ten shillings sterling as to the justices or sheriff shall seem meet.

Prosecution of  
offences.

11 & 12 Vict.  
c. 43.

42 & 43 Vict.  
c. 49.

As to trial  
of offences  
committed  
within the  
Admiralty  
jurisdiction.

5. All offences under this Act may be prosecuted, and penalties and forfeitures under this Act recovered—

(1) In England in manner provided by the Summary Jurisdiction (England) Acts.

\* \* \* \* \*

6. All offences mentioned in this Act which shall be committed within the jurisdiction of the Admiralty shall be deemed to be offences of the same nature and liable to the same punishments as if they had been committed upon any land in the United Kingdom, and may be dealt with, inquired of, tried, and determined in any county or place in the United Kingdom in which the offender shall be apprehended or be in custody or be summoned, in the same manner in all respects as if such offences had been actually committed in that county or place; and in any information or conviction for any such offence the offence may be averred to have been committed "on the high seas." And in Scotland . . .

Where any offence under this Act is committed in or upon any waters forming the boundary between any two counties, districts of quarter sessions, or petty sessions, such offence may be prosecuted before any justices of the peace or sheriff in either of such counties or districts.

7. [*Rep. by 57 & 58 Vict. c. 56. Statute Law Revision.*]

Extension or  
variation of  
close time.

8(d). One of Her Majesty's principal Secretaries of State as to Great Britain, and the Lord Lieutenant as to Ireland, may, upon application of the *justices in quarter sessions assembled (e)* of any county, by order extend or vary the time during which the killing and taking of wild birds or any of them is prohibited by this Act; after the making of which order the penalties imposed by this Act in respect of such wild birds shall in such county apply only to offences committed during the time specified in such order; and the order for the extension or variation of such time shall be published, if made by the Secretary of State, in the London Gazette, . . . and a copy of the London Gazette . . . containing any order made under this Act shall be evidence of the same having been made.

Extent of  
Act.

9. . . . It shall be lawful for one of Her Majesty's principal Secretaries of State as to Great Britain, . . . where it shall appear desirable, from

(d) **Extension of section 8.**—This section is extended by the Wild Birds Protection Act, 1896 (59 & 60 Vict. c. 56), as follows:—

1. From and after the passing of this Act the powers exercisable by the Secretary of State on application under section eight of the Wild Birds Protection Act, 1880, shall extend to the making of an order prohibiting, for special reasons mentioned in the application, the taking or killing of particular kinds of wild birds during the whole or any part of that period of the year to which the protection of wild birds under that Act does not extend, or the taking or killing of all wild birds in particular places during the whole or any part of that period.

2. Public notice of any order made under this Act shall be given in the manner required by the Wild Birds Protection Act, 1894, with respect to orders made under that Act.

\* \* \* \* \*

4. Where any person is convicted of an offence against this Act or the principal Act, the court may, in addition to any penalty that may be imposed, order any trap, net, snare, or decoy bird used by such person for taking any wild bird to be forfeited.

By order of the Secretary of State dated 25th March, 1897 (*Lon. Gaz.*, March 30th, 1897), during the period from the 1st September in any year to the 31st January following, the taking or killing of any of the following kinds of wild birds is prohibited throughout the county of London:—Nightingale, Goldfinch, Lark, Night-jar, Woodpeckers, Kingfisher, Cuckoo, Owls, Kestrel, Buzzard, Honey Buzzard, Merlin, Hobby, Osprey, Wryneck (Cuckoo's Mate or Snake Bird), Swallow, Martins (2), Swift, Bearded Tit, Redpoll or Reed Pheasant, Shrikes, Magpie, Wheatear, Stonechat, Whinchat, Redstart, Flycatchers, Sedge Warbler, Reed Warbler, Blackcap, Garden Warbler, Wood Warbler, Willow Warbler, Chiffchaff, Whitethroat, Lesser Whitethroat, Long-tailed Tit, Nuthatch, Wren, Golden-crested Wren, Wagtails (4), Hawfinch, Linnet, Buntings (3), Starling, Landrail or Corncrake, Coot, and Chaffinch.



time to time, upon the application of the *justices in quarter sessions assembled* (e) 43 & 44 Vict. c. 35.  
in any county to exempt any such county or part or parts thereof, as to all or  
any wild birds, from the operation of this Act; and every such order shall be  
published and may be proved in the manner provided in the preceding section.

## SCHEDULE (f).

|                                     |                 |               |
|-------------------------------------|-----------------|---------------|
| American quail.                     | Kittiwake.      | Sealark.      |
| Auk.                                | Lapwing.        | Seamew.       |
| Avocet.                             | Loon.           | Sea parrot.   |
| Bee-eater.                          | Mallard.        | Sea swallow.  |
| Bittern.                            | Marrot.         | Shearwater.   |
| Bonxie.                             | Merganser.      | Sheldrake     |
| Colin.                              | Murre.          | Shoveller.    |
| Cornish chough.                     | Night-hawk.     | Skua.         |
| Coulterneb.                         | Night-jar.      | Smew.         |
| Cuckoo.                             | Nightingale.    | Snipe.        |
| Curlew.                             | Oriole.         | Solan goose.  |
| Diver.                              | Owl.            | Spoonbill.    |
| Dotterel.                           | Ox Bird.        | Stint.        |
| Dunbird.                            | Oyster catcher. | Stone curlew. |
| Dunlin.                             | Peewit.         | Stonehatch.   |
| Eider duck.                         | Petrel.         | Summer snipe. |
| Fern-owl.                           | Phalarope.      | Tarrock.      |
| Fulmar.                             | Plover.         | Teal.         |
| Gannet.                             | Ploverspage.    | Tern.         |
| Goatsucker.                         | Pochard.        | Thickknee.    |
| Godwit.                             | Puffin.         | Tystey.       |
| Goldfinch.                          | Purre.          | Whaup.        |
| Grebe.                              | Razorbill.      | Whimbrel.     |
| Greenshank.                         | Redshank.       | Widgeon.      |
| Guillemot.                          | Reeve or Ruff.  | Wild duck.    |
| Gull (except Black-backed<br>Gull). | Roller.         | Willock.      |
| Hoopoe.                             | Sanderling.     | Woodcock.     |
| Kingfisher.                         | Sandpiper.      | Woodpecker.   |
|                                     | Scout.          |               |

## WILD BIRDS PROTECTION ACT, 1894.

57 & 58 Vict. c. 24. An Act to amend the Wild Birds Protection Act,  
1880. [20th July, 1894]

1. This Act may for all purposes be cited as the Wild Birds Protection Act, 1894, and shall be construed as one with the Wild Birds Protection Act, 1880 (hereinafter referred to as "the principal Act"), except as hereinafter provided.

2. A Secretary of State may, after the passing of this Act, upon application by the county council of any administrative county by order prohibit—

- (1) The taking or destroying of wild birds' eggs in any year or years in any place or places within that county; or
- (2) The taking or destroying the eggs of any specified kind of wild birds

Short title  
and con-  
struction.  
43 & 44 Vict.  
c. 35.  
Prohibition  
of taking or  
destroying  
eggs.

(e) *Justices in quarter sessions.*—Now the County Council. Loc. Govt. Act, 1888, sec. 3 (xiii), *ante*, vol. i.

(f) *Extension of schedule.*—This schedule is now to be read and construed as if the word Lark had been inserted therein. Wild Birds Protection Act, 1881 (44 & 45 Vict. c. 51), sec. 2.

Within the county of London the Act is applied by order of the Home Secretary dated February 15th, 1896 (*Lon. Gaz.*, February 21st, 1896, p. 1038), to the following species of birds as if they were included in the above schedule, viz.:—Wryneck (Cuckoo's Mate or Snake Bird), Swallow, Martin (*Hirundo urbana*, *Hirundo riparia*), Swift, Bearded Tit (Reedling or Reed Pheasant), Kestrel, Merlin, Hobby, Buzzard, Honey Buzzard, Osprey, Magpie.

57 & 58 Vict.  
c. 24.

Order as to  
application  
of principal  
Act to other  
birds.

Publication  
of order.

Penalties.

Expenses.

51 & 52 Vict.  
c. 41.

within that county or part or parts thereof, as recommended by the said county council and set forth in the said order (g).

- (3) The application by the county council shall specify the limits of the place or places, or otherwise, the particular species of wild birds to which it is proposed that any prohibition in the order is to apply, and shall set forth the reasons on account of which the application is made.

3. A Secretary of State may, on the representation of the council of any administrative county, order that the principal Act shall apply within that county or any part or parts thereof to any species of wild bird not included in the schedule of that Act, as if that species of wild bird were included in the schedule of that Act, and on the making of such order that Act shall apply accordingly.

4.—(1) The council of an administrative county shall in every year give public notice of any order under this Act which is in force in any place within their county during the three weeks preceding the commencement of the period of the year during which the order operates.

- (2) Public notice under this section shall be given—

- (a) As regards each place in which an order operates, by advertising the order in two local newspapers circulating in or near that place;  
(b) By fixing notices of the order in conspicuous spots within and near each place in which the order operates; and  
(c) In such other manner as the Secretary of State may direct, or as the council may think expedient, with a view to making the order known to the public.

5. Any person who, after the passing of this Act, shall take or destroy, or incite any other person to take or destroy—

- (a) the eggs of any wild birds within any area specified in the order; or  
(b) the eggs of any species of wild bird named in the order, shall, on conviction before any two justices of the peace in England, . . . forfeit and pay for every egg so taken or destroyed a sum not exceeding one pound.

6. Any expenses incurred by the council of a county under this Act may be defrayed by that council as expenses for general county purposes within the meaning of the Local Government Act, 1888 . . .

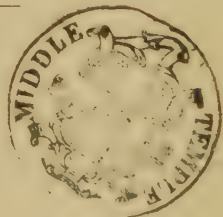
#### 7. [Application to Scotland and Ireland.]

(g) **Wild birds' eggs.**—The taking or destroying of the following wild birds' eggs is prohibited throughout the county of London by order of the Home Secretary dated Feb. 15th, 1896 (*Lon. Gaz.*, Feb. 21st, 1896, p. 1038), viz. :—Nightingale, Goldfinch, Larks, Night-jar, Woodpeckers, Kingfisher, Cuckoo, Owls, Kestrel, Buzzard, Honey Buzzard, Merlin, Hobby, Osprey, Wryneck (Cuckoo's Mate or Snake Bird), Swallow, Martins, Swift, Bearded Tit (Reedling or Reed Pheasant), Shrikes, Magpie, Wheatear, Stonechat, Whinchat, Redstart, Flycatchers, Sedge Warbler, Reed Warbler, Blackcap, Garden Warbler, Wood Warbler, Willow Warbler, Chiffchaff, Whitethroat, Lesser Whitethroat, Long-tailed Tit, Nuthatch, Wren, Golden-crested Wren, Wagtails, Hawfinch, Linnet, Buntings, Starling, Landrail or Corncrake, Coot.

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